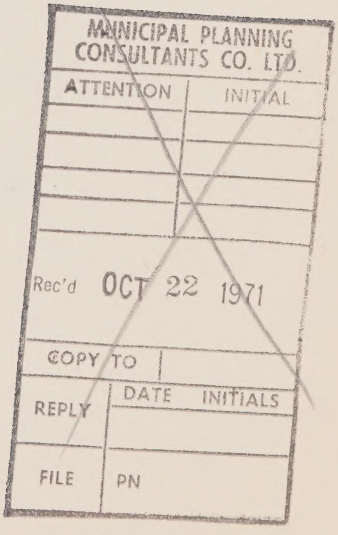
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Government
Publications

ONTARIO

REVISED STATUTES

OF

ONTARIO, 1970

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED UNDER THE AUTHORITY OF THE STATUTES REVISION ACT, 1968-69

IN SIX VOLUMES

VOL. 5

TORONTO
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REVISED STATUTES OF ONTARIO, 1970

VOLUME 5

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CHAPTER 411

The Religious Institutions Act

Appointment and powers of trustees to take conveyances

1.—(1) Where a religious society or congregation of Christians desires to take a conveyance of land for the site of a church, chapel, meeting-house, burial ground, residence for a minister, book store, printing or publishing office or for any other religious or congregational purpose, such society or congregation may appoint trustees to whom, and their successors, to be appointed in such manner as may be specified in the conveyance, the land requisite for all or any of such purposes may be conveyed, and such trustees and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land and maintain and defend actions for the protection thereof and of their property therein.

Description of trustees in conveyances

(2) The conveyance to the trustees may be made to them under a collective name, and it is not necessary to set out their individual names as parties thereto, if such names are set out or appear therein by recital or otherwise, and this applies to conveyances heretofore made as well as to those hereafter to be made.

Provision for change of name

(3) If the name by which any such religious society or congregation or trustees therefor have heretofore held or hereafter hold land under and pursuant to the powers of this Act has been or shall be changed by such religious society or congregation by by-law or resolution, such change of name does not prejudice or affect the title of the society or congregation or their trustees to the land. R.S.O. 1960, c. 351, s. 1.

Conveyance of additional lands to trustees

2. Where trustees appointed as provided in section 1 hold land for the purposes aforesaid or any of them and the religious society or congregation for which they hold the land desires to take a conveyance of additional land for any of such purposes, whether such additional land adjoins the land already held or not, and such religious society or congregation desires the same to be held by the same trustees, the society of congregation may by resolution direct that such land be conveyed to the trustees by their collective name and upon the conveyance being so made the land vests in the trustees for the purposes declared by the conveyance and is subject to the provisions of this Act in the same manner as the other land held by the trustees. R.S.O. 1960, c. 351, s. 2.

Power to vary number of trustees

3.—(1) Any congregation or society of Chistians entitled to the benefit of any land held under the provisions of this Act, or otherwise, may by a resolution passed by a two-thirds vote of the persons entitled to vote in respect of the appointment of trustees increase or decrease the number of trustees by the conveyance or otherwise to be appointed for the purpose of holding such land, or may in like manner fix the number of trustees if the conveyance makes no provision as to their number.

Notice, meeting and resolution

(2) No such resolution shall be passed unless at a meeting of which notice has been given in the manner required for a meeting for the election of trustees for such land, stating that a proposal for increasing or decreasing or determining, as the case may be, the number of the trustees, will be considered at the meeting.

When resolution for increase in number to take effect

(3) If the resolution provides for the appointment of more trustees than are authorized by the conveyance, or more than there are in fact if the number is not limited by the conveyance, the same shall take effect forthwith, and the additional trustees to be appointed may be elected at the meeting at which the resolution is passed or at a subsequent meeting.

When resolution for reduction in number to take effect

(4) If the resolution provides for a smaller number of trustees than the conveyance provides for, the resolution shall not take effect until vacancies occur, by death or otherwise, reducing the number of trustees to the number provided for by the resolution, and no other trustee shall be appointed until the number has been reduced below the number authorized by the resolution. R.S.O. 1960, c. 351, s. 3.

Power to mortgage

4.—(1) Where a debt has heretofore been or is hereafter contracted for the building, repairing, extending or improving of a church, chapel, meeting-house, residence for a minister, book store, printing or publishing office or other building on land held by trustees for the benefit of any society or congregation in Ontario, or for the purchase of the land on which the same has been or is intended to be erected, the trustees, or a majority of them, may secure the debt or any part thereof by a mortgage upon the land, or may borrow money to pay the debt or part thereof and may secure the repayment of the loan and interest by a like mortgage upon such terms as may be agreed upon.

Where church building is not erected on land held by trustees

(2) The authority conferred by this section extends to any land so held, although the church or other building in respect of which the debt is contracted is not erected on such land. R.S.O. 1960, c. 351, s. 4.

Power to join in mortgage of lands held under separate conveyances

5. In the case of separate but contiguous parcels of land held under separate conveyances by trustees for the same religious society or congregation under this Act, if such parcels of land are so used, occupied, or built upon as to become indivisible except by

the removal, alteration, or destruction, in whole or in part, of such user, occupation or building, the trustees of such parcels may join in any mortgage authorized by section 4. R.S.O. 1960, c. 351, s. 5.

Power to lease

6.—(1) The grantees in trust named in any letters patent from the Crown, or the survivors of survivor of them, or the trustees for the time being appointed in manner prescribed in the letters patent, whereby land is granted for the use of a religious society or congregation and any other trustees for the time being entitled by law to hold land in trust for the use of a religious society or congregation may lease for any term not exceeding twenty-one years land so held by them at such rent and upon such terms as the trustees or a majority of them consider reasonable.

Power to agree in leases to renew

(2) In such lease the trustees may covenant or agree for the renewal thereof at the expiration of any or every term of years for a further term of twenty-one years or a less period at such rent and on such terms as may then by the trustees for the time being be agreed upon with the lessee, his heirs, executors, administrators or assigns, or may consent or agree for the payment to the lessee, his executors, administrators or assigns of the value of any buildings or other improvements that may at the expiration of any term be on the demised premises, and the mode of ascertaining the amount of such rent or the value of such improvements may also be specified in the original lease.

Consent of society or congregation to lease

(3) The trustees shall not so lease without the consent of the society or congregation for whose use they hold the land in trust, and such consent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose; nor shall the trustees lease any land that at the time of making the lease is necessary for the purpose of erecting a church or place of worship or other building thereon or for a burial ground for the society or congregation.

Remedies of trustees for rent in arrear

(4) The trustees may, in their own names or by any name by which they hold the land, sue or distrain for rent in arrear, and may take all such means for the recovery thereof as landlords are entitled to take. R.S.O. 1960, c. 351, s. 6.

Power to sell

7.—(1) Where land held by trustees for the use of a society or congregation becomes unnecessary to be retained for such use and it is considered advantageous to sell it, the trustees for the time being may give public notice of an intended sale, specifying the premises to be sold and the time and terms of sale, and after publication of the notice once in each week for four successive weeks in a daily or a weekly newspaper published in or near the place where the land is situate they may sell the land at public auction according the the notice, but the trustees are not obliged to sell if in their judgment an adequate price is not offered.

Private sale

(2) The trustees may thereafter sell the land either by public or private sale, but a less sum shall not be accepted at private sale than was offered at the public auction without the consent of the society or congregation.

Special powers not affected

(3) This section does not affect or vary any special powers or trusts for sale contained in any deed or instrument inconsistent herewith. R.S.O. 1960, c. 351, s. 7.

Sale or exchange of property held by trustees

8.—(1) Where at a meeting of a society or congregation duly called in accordance with the statutes, by-laws, rules and regulations governing the same, it has been proposed to sell, exchange or otherwise deal with any land held by trustees for the use of such society or congregation, and the society or congregation has by resolution approved of the proposed method of dealing with such land, or some part thereof, and the price to be paid or property to be accepted in exchange therefor, and all other terms and conditions of such sale, exchange, or other disposition, it is not necessary for the trustees to give any other notice or to offer the land for sale by public auction, as provided in section 7, but the trustees may make a conveyance or other disposition of the land dealt with in accordance with the terms and conditions of such resolution.

Notice of meeting

(2) In the absence of any rule or regulation defining the notice that is to be given of any meeting of such society or congregation, such meeting shall be properly called upon three days notice given by announcement from the pulpit or by written notice posted up upon the door of the church and in the nearest schoolhouse or post office for three days before such meeting. R.S.O. 1960, c. 351, s. 8.

Conveyance to trustees of new congregation

9.—(1) Where land is held by trustees for the use of a religious society or congregation and a separate society or congregation is formed therfrom, the trustees for the time being may convey to the trustees of such separate society or congregation such part of the land as is no longer required for the use of the society or congregation for the use of which it is so held, but no such conveyance shall be made unless the assent thereto of the last-mentioned society or congregation has been first obtained or the conveyance is sanctioned in the manner provided by section 12.

As to such conveyance heretofore executed

(2) Every conveyance heretofore executed to any such separate society or congregation and so assented to or sanctioned is as valid and binding as if subsection 1 had been in force at the time such assent or saction was given and such conveyance was executed; but this subsection does not apply to a conveyance that is in question in an action pending on the 7th day of March, 1910, or that has heretofore been determined to be invalid or affect any

adverse right or title acquired before that date. R.S.O. 1960, c. 351, s. 9.

Conveyance where congregations unite

10.—(1) Where land is held by trustees for the use of any religious society or congregation and such society or congregation desires to unite with another society or congregation of the same denomination, the trustees for the time being may convey and land held by them to the trustees of the last-mentioned society or congregation or of the united society or congregation, but not such conveyance shall be made unless it is assented to or sanctioned in the manner provided by section 12.

Conveyances heretofore made

(2) Every such conveyance heretofore made is as valid and binding as if subsection 1 had been in force at the time such assent or sanction was given and such conveyance was made. R.S.O. 1960, c. 351, s. 10.

Conveyance to denominational board

11. The trustees of any religious society or congregation may convey the land belonging to such society or congregation to any incorporated board of the denomination of which such society or congregation forms part, but no such conveyance shall be made unless the assent thereto of such society or congregation has been first obtained or the conveyance is sanctioned in the manner provided by section 12. R.S.O. 1960, c. 351, s. 11.

Consent of society or congregation to sale

12.—(1) Before any conveyance is executed in pursuance of a public or private sale, the society or congregation for whose use the land is held shall be duly notified thereof, and its assent obtained to the execution of the deed, and such assent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose.

Evidence

(2) Such assent shall be held in favour of the grantee, his heirs and assigns to be conclusively attested by the execution of the deed by the chairman at such meeting, or by the official head of such society or congregation, or by some person appointed at such meeting for the purpose, and the person assuming to execute the deed as chairman, official head or appointee shall be deemed to be such chairman, official head or appointee, as the case may be.

Approval by county judge

(3) Instead of such assent, it is sufficient for the validity of any such conveyance that the sale be sanctioned and the conveyance approved of by the judge of the county or district court of the county or district in which the land is situate. R.S.O. 1960, c. 351, s. 12.

Mode of appointing trustees' successors

13.—(1) Any society or congregation on whose behalf land is now, has been or hereafter may be held by a trustee or trustees, without the manner of appointing successors being set forth in the grant, conveyance, or devise of such land, or which is or may be

entitled to any land, at any time hereafter may assemble in a public meeting duly convened by notice in writing, signed by at least five members of such society or congregation, and affixed to the door of its place of worship, at least eight days before the day appointed for holding such meeting, and at such meeting, by the votes of a majority of the members present, may determine in what manner the successors to such trustee or trustees shall be appointed, or may appoint a trustee or trustees of any land to which the society or congregation is entitled, and determine in what manner their successors in the trust shall be appointed.

Effect of registration of proceedings

(2) Any land to which the society or congregation is entitled shall from time to time vest in and be held by the trustee or trustees to be appointed as hereinbefore mentioned, and their successors in the trust, immediately upon the registration of the proceedings without any or further conveyance or instrument. R.S.O. 1960, c. 351, s. 13.

Where two societies desire to build a house of worship

14. Where members or adherents in any locality of two or more religious societies desire to build a house for public worship, it is lawful for each of the societies respectively to appoint from time to time one trustee in the manner and form prescribed in this Act, and the trustees of the religious societies so united have the like powers as are conferred on trustees under this Act, and no others, and as to any act, deed or thing to be done or made by trustees under this Act that requires the sanction or assent of the society or congregation, the trustees under this section shall obtain the sanction or assent of each and every of the religious societies so united, to be ascertained and signified in the manner hereinbefore mentioned. R.S.O. 1960, c. 351, s. 14.

Record of proceedings

15.—(1) A record of the proceedings of every meeting held under this Act shall be entered in the minute book or other official register of the acts and proceedings of the society or congregation, and shall be signed by the chairman and secretary thereof, and shall thereafter be deposited of record among the archives of the society or congregation, and a copy of such record verified by the affidavit of the chairman or secretary of the meeting may be recorded in the registry office of the registry division in which the land is situate

Copy as evidence

(2) A copy of such proceedings taken from the minute book or other official register of the society or congregation and certified by the clerk or custodian of the records of the society or congregation, or a copy certified by the registrar of the registry division wherein the same has been registered, is *prima facie* evidence of the contents thereof. R.S.O. 1960, c. 351, s. 15.

Duty of trustees as to accounting

16. Trustees selling or leasing land under the authority of this Act shall on the first Monday in July in every year have ready and

open for the inspection of the society or congregation that they represent, or of any member thereof, a detailed statement showing the rents that accrued during the preceding year, and all sums of money whatever in their hands for the use and benefit of the society or congregation that were in any manner derived from the land under their control or subject to their management, and also showing the application of any portion of the money that has been expended on behalf of the society or congregation. R.S.O. 1960, c. 351, s. 16.

This Act not to affect special Acts as to religious bodies

17. This Act does not repeal, alter, affect or vary any of the provisions in any special Act with reference to any religious society or congregation, but, on the contrary, any of such provisions that differ from or are inconsistent with any of the provisions of this Act prevail, and where any additional rights or privileges are conferred by this Act, they shall be construed as supplementary to the provisions in any such special Act, and in every case the special trusts or powers of trustees in any deed, conveyance or other instrument are not affected or varied by any of the provisions of this Act. R.S.O. 1960, c. 351, s. 17.

Power to appoint joint trustees for two or more burial grounds that adjoin each other

18.—(1) Whenever any two or more parcels of land adjoining each other, or in the same neighbourhood, are held as sites for burial grounds, by different bodies of trustees, whether of the same or different denominations, societies or congregations, and such trustees think it desirable that such parcels should be vested in one body of trustees, such two or more bodies of trustees, or the majority of each of such bodies, may by deed appoint trustees to whom and their successors, to be appointed in such manner as may be specified in such deed, all or any of the land vested in such appointing bodies of trustees as sites for burial grounds may be conveyed, and such trustees so appointed and their successors in perpetual succession by the name expressed in the deed may take, hold and possess the land thereby or thereafter conveyed to them as a site or sites for a burial ground, and maintain and defend actions for the protection thereof and of their property therein, and the several appointing bodies of trustees may, in or by the same deed of appointment or by any other deed or deeds, convey and assure all or any of the parcels of land so vested in them respectively to such trustees so appointed and their successors upon, with and subject to such trusts, powers, limitations and provisions not inconsistent with the purposes of a burial ground as are by the parties thereto considered proper. R.S.O. 1960, c. 351, s. 18 (1).

Assent of congregation or religious body required

(2) No such deed of appointment of trustees and no such conveyance or assurance shall be made or executed by any body, or the majority of any body, of trustees until the society or congregation for whose use the land is held is duly notified thereof, and its assent obtained to the execution of such deed of

appointment, or of such conveyance or assurance, and such assent shall be signified by the votes of a majority of the members present at a meeting of the society or congregation duly called for the purpose.

Evidence of assent

(3) Such assent shall be held in favour of such new trustees and their successors to be attested by the execution of the deed by the chairman at such meeting, or by the official head of such society or congregation, or by some person appointed at such meeting for the purpose, and the person assuming to execute the deed as chairman, official head, or appointee shall be presumed to be such chairman, official head, or appointee, as the case may be. R.S.O. 1960, c. 351, s. 18 (2, 3).

Rights extended to The Anglican Church of Canada

19.—(1) All the rights, powers, and privileges, conferred upon any society or congregation by this Act extend and apply to The Anglican Church of Canada, formerly or otherwise called The Church of England in Canada, or the United Church of England and Ireland in Canada, or the United Church of England and Ireland in Upper Canada, or the Church of England in Upper Canada.

Incumbent and church wardens to be trustees

(2) The parson or other incumbent of the church for the time being and the churchwardens thereof shall, for the purposes of this Act, be deemed to be trustees within the meaning thereof.

Bishop, etc., to be trustees under 3 V., c. 74, s. 16

(3) In cases within section 16 of the Act passed in the third year of the reign of Her late Majesty Queen Victoria, chaptered 74, intituled *An Act to make provision for the management of the Temporalities of the United Church of England and Ireland in this Province, and for other purposes therein mentioned*, the bishop, or parson, rector or incumbent or any successor or other person in whom the legal title or estate is vested, by, from or under any of them, shall also be deemed to be a trustee by whom the like rights and powers of trustees may be exercised as in the case of such trustees.

Property vested in the bishop in trust

(4) In cases of property vested in the bishop of any diocese in trust, not covered by subsection 3, the bishop shall also be deemed to be a trustee by whom the like powers of trustees under this Act may be exercised as in the case of such trustees.

Property vested in the synod in trust within 7 V., c. 68 and 32 V., c. 51

(5) In cases of property vested in the synod of any diocese within the Act passed in the seventh year of the reign of Her late Majesty Queen Victoria, chaptered 68, intituled *An Act to Incorporate the Church Societies of the United Church of England and Ireland, in the Dioceses of Quebec and Toronto*, and the Act passed in the thirty-second year of the reign of Her late Majesty Queen Victoria, chaptered 51, intituled *An Act to Incorporate the Synod of the Diocese of Toronto, and to Unite the Church Society of the Diocese of Toronto therewith*, the synod shall also be deemed to be a trustee by whom the like rights and powers of trustees under

this Act may be exercised as in the case of such trustees, and the powers of the synod under this subsection may be exericised by and through such boards and committees as the synod may by by-law appoint for that purpose. R.S.O. 1960, c. 351, s. 19 (1-5).

How land may be sold or encumbered, consent requisite

(6) Land shall not be sold or leased, mortgaged or otherwise encumbered under the powers conferred by this Act except with the consent of the vestry of the church or congregation interested therein and of the bishop of the diocese and the executive committee of the synod of the diocese, and it is hereby declared that the consent of the vestry given in accordance with the rules and canons of such church shall be deemed to be the consent of the congregation, and the execution of the conveyance by the bishop, coadjutor bishop or a suffragan bishop of the diocese and by the secretary or secretaries of the synod, or a memorandum of consent endorsed thereon and signed by them, is, in favour of the grantee, his heirs and assigns, conclusive evidence of the consent of the bishop and executive committee. R.S.O. 1960, c. 351, s. 19 (6); 1968, c. 117, s. 1.

Rights extended to Roman Catholic Church

20. All the rights and privileges conferred upon any religious society or congregation mentioned in section 1 extend in every respect to the Roman Catholic Church, to be exercised according to the government of that church. R.S.O. 1960, c. 351, s. 20.

Rights extended to Jews

21. All the rights and privileges conferred upon any religious society or congregation mentioned in section 1 have been, since the 7th day of April, 1891, and are hereby extended to and apply to any society or congregation of Jews professing the Jewish religion. R.S.O. 1960, c. 351, s. 21.

CHAPTER 412

The Replevin Act

Interpretation

1. In this Act, "sheriff" includes any officer to whom an execution or other process is directed. R.S.O. 1960, c. 352, s. 1.

Where goods may be replevied

2. Where goods, chattels, deeds, bonds, debentures, promissory notes, bills of exchange, books of account, papers, writings, valuable securities or other personal property or effects have been wrongfully distrained or have been otherwise wrongfully taken or detained, the owner or other person capable of maintaining an action for damages therefor may bring an action of replevin for the recovery thereof and of the damages sustained by reason of the distraint, taking or detention. R.S.O. 1960, c. 352, s. 2.

Goods seized under legal process

R.S.O. 1970, c. 249

3. An action of replevin shall not be brought for the recovery of personal property seized under process by and in the custody of a sheriff, or for the recovery of liquor within the meaning of *The Liquor Control Act* seized under any Act of the Legislature. R.S.O. 1960, c. 352, s. 3.

Power of sheriff

4. Where a sheriff has in his hands an order of replevin and the property to be replevied or any part of it is reasonably supposed to be secured or concealed in a dwelling house of the defendant or of any other person holding it for him and the sheriff publicly demands at the door of the dwelling house delivery of the property to be replevied and it is not delivered to him within six hours after the demand, he may, and shall, if necessary, but during daylight only, break open the dwelling house for the purpose of replevying the property or any part of it, and, if found therein, shall make replevin according to the order. R.S.O. 1960, c. 352, s. 4.

When concealed in other enclosure

5. Where the property to be replevied, or any part of it is reasonably supposed to be secured or concealed in an enclosure other than a dwelling house of the defendant or of any other person holding it for him and the sheriff publicly demands at the enclosure delivery of the property to be replevied and it is not forthwith delivered to him, he may, and shall, if necessary, at once break open the enclosure for the purpose of replevying the property, or any part thereof, and, if found therein, shall make replevin according to the order. R.S.O. 1960, c. 352, s. 5.

When concealed on person, etc.

6. Where the property to be replevied or any part of it is reasonably supposed to be concealed either about the person or on the premises of the defendant or of any other person holding it for him and the sheriff demands from the defendant or such other person delivery thereof and delivery is neglected or refused, he may, and, if necessary shall, search and examine the person, and, subject to sections 4 and 5, the premises of the defendant or other person, for the purpose of replevying the property or any part of it, and, if found, shall make replevin according to the order. R.S.O. 1960, c. 352, s. 6.

CHAPTER 413

The Representation Act

Boundaries

1. The boundaries of every territorial district, county, city, town, village, township and improvement district shall for the purposes of this Act be deemed to be the boundaries of such territorial district, county, city, town, village, township or improvement district as defined by statute, by-law, proclamation or other lawful authority on the 6th day of September, 1967. 1966, c. 137, s. 1, *amended*.

Number of members

2. The Legislative Assembly of Ontario shall consist of one hundred and seventeen members. 1966, c. 137, s. 2.

Division of Ontario into electoral districts

3.—(1) Ontario shall, for the purpose of representation in the Assembly, be divided into the electoral districts as set out in the Schedule.

One member per electoral district

(2) One member shall be returned to the Assembly for each electoral district. 1966, c. 137, s. 3.

Changes in municipal boundaries

4. The boundaries of the electoral districts as set out in the Schedule shall not be affected by alterations in municipal boundaries made after the 6th day of September, 1967. 1966, c. 137, s. 4, *amended*.

Municipalities on boundary lines

5. Where a city, town, village, township or improvement district becomes incorporated and is not expressly included in an electoral district set out in the Schedule but is situated in part in two or more of such electoral districts, the electors entitled to vote in such municipality are entitled to vote in the electoral district in which they would have been entitled to vote if the city, town, village, township or improvement district had not become incorporated. 1966, c. 137, s. 5.

Augmentations or gores of townships

6. Except as otherwise expressly set out in the Schedule, every augmentation or gore of a township shall for the purposes of this Act be considered as forming part of the electoral district in which the township is situate. 1966, c. 137, s. 6.

Cities, towns, etc., included in electoral district in which situate

7. Every city, town, village, township and improvement district heretofore or hereafter incorporated, situate wholly within an electoral district as set out in the Schedule and not expressly included in any other electoral district in the Schedule,

forms part of the electoral district in which it is situate. 1966, c. 137, s. 7.

Special Act overruled

8. Every city, town, village, township and improvement district that by the provisions of any special Act passed before the 6th day of September, 1967 forms or forms part of an electoral district shall, notwithstanding such provisions, form or form part of the electoral district or districts in which it is included in the Schedule. 1966, c. 137, s. 8, *amended*.

SCHEDULE

In the following descriptions reference to "avenue", "boulevard", "canal", "channel", "court", "crescent", "drive", "highway", "railway line", "river", "road", "street", or "terrace" signifies the centre line of the features so named unless otherwise described.

Where county, territorial district or township areas are named for inclusion in an electoral district, it is intended that the whole of any city, separated town, town, village, improvement district and Indian reserve situated within such areas be included unless otherwise provided.

Where "townships" named and described for inclusion in an electoral district lie within a territorial district, it is intended that such townships refer to "geographic townships" as named and described in *The Territorial Division Act* in the Revised Statutes of Ontario, 1960, unless otherwise described.

ELECTORAL DISTRICTS

THE ELECTORAL DISTRICT OF ALGOMA—consists of that portion of the Territorial District of Algoma lying within the following limits: Commencing at the intersection of the easterly boundary of the Township of Striker and the waters of the North Channel of Lake Huron; thence northerly along the easterly boundaries of the townships of Striker and Mack to the northwest angle of the Township of Mack; thence westerly along the northerly boundary of the Township of Mack to the southeast angle of Township 161; thence northerly along the easterly boundaries of townships 161, 162 and 163 to the northeast angle of Township 163; thence easterly along the southerly boundaries of townships 1A, U, Q, M, I, E and A to the easterly boundary of the Territorial District of Algoma; thence northerly, westerly and southerly along the boundary of the Territorial District of Algoma to the International Boundary between Canada and the United States of America; thence southeasterly along the said International Boundary to the westerly prolongation of the southerly boundary of the Township of Prince; thence easterly along the said prolongation and the southerly boundary of the Township of Prince to the southeast angle of the said township; thence northerly along the easterly boundary of the Township of Prince to the northeast angle thereof; thence easterly along the southerly boundaries of the townships of Pennefather and Aweres to the westerly boundary of the Township of Duncan; thence southerly along the westerly boundary of the Township of Duncan, the easterly limit of the City of Sault Ste. Marie and the southerly prolongation of the said limit to the International Boundary between Canada and the United States of America; thence easterly and southeasterly along the said International Boundary to its intersection with the boundary between the Territorial Districts of Algoma and Manitoulin; thence easterly along the last-mentioned boundary to the southerly prolongation of the easterly boundary of the Township of Striker; thence northerly along the said prolongation to the point of commencement; the towns of Blind River, Bruce Mines and Thessalon, and the Village of Iron Bridge.

THE ELECTORAL DISTRICT OF ALGOMA-MANITOULIN—consists of the Territorial District of Manitoulin and those portions of the Territorial Districts of Algoma and Sudbury lying within the following limits: Commencing at the intersection of the southerly boundary of the Territorial District of Sudbury and the easterly boundary of the Township of Curtin; thence northerly along the easterly boundaries of the townships of Curtin and Foster to the northeast angle of the

Township of Foster; thence westerly along the northerly boundaries of the townships of Foster, Merritt, Hallam and May to the northwest angle of the Township of May; thence northerly along the easterly boundaries of the Township of Tennyson and townships 123, 124 and 125 to the northeast angle of Township 125; thence westerly along the northerly boundaries of townships 125, 132, 139, 145, 151 and 157 to the northwest angle of Township 157; thence southerly along the westerly boundaries of townships 157, 156 and 155 to the southwest angle of Township 155; thence easterly along the southerly boundary of Township 155 to the northwest angle of the Township of McGiverin; thence southerly along the westerly boundaries of the townships of McGiverin and Long and the southerly prolongation of the westerly boundary of the Township of Long to the southerly boundary of the Territorial District of Algoma; thence easterly along the southerly boundaries of the Territorial Districts of Algoma and Sudbury to the point of commencement; the towns of Espanola, Gore Bay, Little Current, Massey and Webbwood, and the Improvement District of Elliot Lake.

THE ELECTORAL DISTRICT OF BRANT—consists of the townships of Blenheim, Burford, Onondaga, South Dumfries, Townsend, Tuscarora and Windham, and the towns of Paris and Waterford.

THE ELECTORAL DISTRICT OF BRANTFORD—consists of the townships of Brantford and Oakland, and the City of Brantford.

THE ELECTORAL DISTRICT OF CARLETON—consists of the townships of Fitzroy, Goulbourn, Huntley, March, Marlborough, Nepean, North Gower and Torbolton, and the villages of Richmond and Stittsville.

THE ELECTORAL DISTRICT OF CARLETON EAST—consists of the townships of Gloucester and Osgoode, the Village of Rockcliffe Park and that portion of the City of Ottawa lying northeast of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the provinces of Ontario and Quebec and the westerly prolongation of Rideau Gate; thence easterly along the said prolongation to Sussex Drive; thence easterly along Sussex Drive to the limits of the Village of Rockcliffe Park; thence easterly, northerly, southerly and westerly along the limits of the Village of Rockcliffe Park to the northerly limit of the City of Vanier; thence easterly, southerly and westerly along the limits of the City of Vanier to the centre line of the Rideau River; thence southerly along the centre line of the Rideau River to the Queensway; thence easterly along the Queensway to Belfast Road; thence southerly along the Belfast Road to Tremblay Road; thence easterly along Tremblay Road to Avenue "R"; thence southerly along Avenue "R" to the Canadian Pacific Railway line; thence easterly along the said railway line to St. Laurent Boulevard; thence southerly along St. Laurent Boulevard to Russell Road; thence southwesterly along Russell Road to Walkley Road; thence easterly along Walkley Road to the easterly limit of the City of Ottawa.

THE ELECTORAL DISTRICT OF CHATHAM-KENT—consists of the townships of Chatham and Dover, the City of Chatham, and the Town of Wallaceburg.

THE ELECTORAL DISTRICT OF COCHRANE NORTH—consists of that portion of the Territorial District of Cochrane lying north and west of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the Provinces of Ontario and Quebec and the southerly shore of Lake Abitibi; thence northwesterly along the water's edge of Lake Abitibi to the southerly boundary of the Township of Galna; thence westerly along the southerly boundaries of the townships of Galna, Moody, Wesley, Edwards and Aurora to

the southwest angle of the Township of Aurora; thence southerly along the easterly boundaries of the townships of McCart and Dundonald to the southeast angle of the Township of Dundonald; thence westerly along the southerly boundaries of the townships of Dundonald, Evelyn, Gowan, Wark, Kidd, Macdiarmid, Loveland and Byers to the southwest angle of the Township of Byers; thence southerly along the easterly boundaries of the townships of Fortune and Enid to the southerly boundary of the Territorial District of Cochrane, and that portion of the Territorial District of Kenora (Patricia Portion) lying east of a line described as follows: Commencing at the northwest angle of the Territorial District of Cochrane; thence northerly along the northerly prolongation of the westerly boundary of the Territorial District of Cochrane to the northerly limit of the Province of Ontario, and the towns of Cochrane, Hearst and Smooth Rock Falls.

THE ELECTORAL DISTRICT OF COCHRANE SOUTH—consists of that portion of the Territorial District of Cochrane lying south of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the provinces of Ontario and Quebec and the southerly shore of Lake Abitibi; thence northwesterly along the water's edge of Lake Abitibi to the northerly boundary of the Township of Kerr; thence westerly along the northerly boundaries of the townships of Kerr, Knox, Rickard, Teefy and Calvert to the northwest angle of the Township of Calvert; thence southerly along the westerly boundaries of the townships of Calvert and Clergue to the southwest angle of the Township of Clergue; thence westerly along the northerly boundaries of the townships of German, Matheson, Hoyle, Murphy, Jessop, Jamieson, Robb and Côté to the northwest angle of the Township of Côté; thence southerly along the westerly boundaries of the townships of Côté and Massey to the southerly boundary of the Territorial District of Cochrane, and the towns of Iroquois Falls, Matheson and Timmins.

THE ELECTORAL DISTRICT OF DUFFERIN-SIMCOE—consists of the townships of Adjala, Essa, Mono, Mulmur, Nottawasaga, Tecumseth, and Tosorontio, the towns of Alliston, Collingwood, Stayner and Orangeville, and the villages of Beeton, Creemore and Tottenham.

THE ELECTORAL DISTRICT OF DURHAM—consists of the County of Durham, the towns of Bowmanville and Port Hope, and the villages of Millbrook and Newcastle.

THE ELECTORAL DISTRICT OF ELGIN—consists of the townships of Bayham, Houghton, Malahide, Middleton, South Dorchester, Southwold and Yarmouth; the City of St. Thomas; the towns of Aylmer and Delhi, and the villages of Belmont, Port Burwell, Port Stanley, Springfield and Vienna.

THE ELECTORAL DISTRICT OF ESSEX-KENT—consists of the townships of Maidstone, Raleigh, Rochester, Romney, Tilbury East, Tilbury North and Tilbury West, the towns of Essex and Tilbury, and the villages of Belle River, St. Clair Beach and Wheatley.

THE ELECTORAL DISTRICT OF ESSEX SOUTH—consists of the townships of Anderdon, Colchester North, Colchester South, Gosfield North, Gosfield South, Malden, Mersea and Pelee including any islands forming part thereof, and the towns of Amherstburg, Harrow, Kingsville and Leamington.

THE ELECTORAL DISTRICT OF FORT WILLIAM—consists of that portion of the Territorial District of Thunder Bay lying south and east of a line described as follows: Commencing at the intersection of the centre line of Thunder Bay of Lake Superior and the easterly prolongation of the northerly limit of the City of Fort William; thence westerly

along the said prolongation, the northerly limit of the City of Fort William and the northerly boundaries of the townships of Neebing and Paipoonge to the northwest angle of the Township of Paipoonge; thence northerly along the easterly boundary of the Township of O'Connor to the northeast angle of the said township; thence along the northerly boundaries of the townships of O'Connor and Marks to the northwest angle of the Township of Marks; thence southerly along the westerly boundaries of the townships of Marks, Lybster, Fraleigh and Devon to the intersection of the westerly boundary of the Township of Devon to the International Boundary between Canada and the United States of America, and the City of Fort William.

THE ELECTORAL DISTRICT OF FRONTENAC-ADDINGTON—consists of the townships of Abinger, Anglesea, Ashby, Barrie, Bedford, Camden [East], Clarendon, Denbigh, Effingham, Hinchinbrooke, Kaladar, Kennebec, Kingston, Loughborough, Miller, North Canonto, Olden, Oso, Palmerston, Pittsburgh, Portland, Sheffield, South Canonto and Storrington, and the Village of Newburgh.

THE ELECTORAL DISTRICT OF GLENGARRY—consists of the townships of Charlottenburgh, East Hawkesbury, Finch, Kenyon, Lancaster, Lochiel, Roxborough and that portion of the Township of West Hawkesbury lying southwest of a line described as follows: Commencing at the intersection of the westerly boundary of the Township of West Hawkesbury and the road between concessions 2 and 3; thence easterly along the said road to the easterly boundary of the Township of West Hawkesbury, the towns of Alexandria and Vankleek Hill, and the villages of Finch, Lancaster and Maxville.

THE ELECTORAL DISTRICT OF GRENVILLE-DUNDAS—consists of the counties of Dundas and Grenville, the Separated Town of Prescott, the Town of Kemptville, and the villages of Cardinal, Chesterville, Iroquois, Merrickville, Morrisburg and Winchester.

THE ELECTORAL DISTRICT OF GREY-BRUCE—consists of the townships of Albemarle, Amabel, Arran, Brant, Derby, Eastnor, Elderslie, Keppel, Lindsay, St. Edmunds, Sarawak, Saugeen, Sullivan, Sydenham, and the adjacent islands in Lake Huron and Georgian Bay of Lake Huron, the City of Owen Sound, the towns of Chesley, Port Elgin, Southampton, Walkerton and Wiarton, and the villages of Hepworth, Lion's Head, Paisley, Shallow Lake and Tara.

THE ELECTORAL DISTRICT OF GREY SOUTH—consists of the townships of Artemesia, Bentinck, Collingwood, Egremont, Euphrasia, Glenelg, Holland, Normanby, Osprey, Proton and St. Vincent, the towns of Durham, Hanover, Meaford and Thornbury, and the villages of Chatsworth, Dundalk, Flesherton, Markdale and Neustadt.

THE ELECTORAL DISTRICT OF HALDIMAND-NORFOLK—consists of the townships of Canborough, Charlotteville, Dunn, Moulton, North Cayuga, North Walsingham, Oneida, Rainham, Seneca, Sherbrooke, South Cayuga, South Walsingham, Walpole, and Woodhouse, the towns of Caledonia, Dunnville, Port Dover and Simcoe, and the villages of Cayuga, Hagersville, Jarvis and Port Rowan.

THE ELECTORAL DISTRICT OF HALTON EAST—consists of that portion of the Township of Esquesing lying south of a line described as follows: Commencing at the intersection of the westerly boundary of the Township of Esquesing and the line between lots 22 and 23 in Concession 1; thence easterly along the line between lots 22 and 23 in each concession to the intersection of the said line and the easterly boundary of the Township of Esquesing, and the towns of Georgetown, Milton and Oakville.

THE ELECTORAL DISTRICT OF HALTON WEST—consists of the Township of Nassagawaya and that portion of the Township of Esquesing lying north of a line described as follows: Commencing at the intersection of the westerly boundary of the Township of Esquesing and the line between lots 22 and 23 in Concession 1; thence easterly along the line between lots 22 and 23 in each concession to the intersection of the said line and the easterly boundary of the Township of Esquesing, and the towns of Acton and Burlington.

THE ELECTORAL DISTRICT OF HAMILTON CENTRE—consists of that portion of the City of Hamilton lying within the following limits: Commencing at the intersection of Main Street and Ottawa Street; thence northerly along Ottawa Street and its northerly prolongation to the centre line of Hamilton Harbour; thence southwesterly along the centre line of Hamilton Harbour to its intersection with the northerly prolongation of Wellington Street; thence southerly along the said prolongation and Wellington Street to Wilson Street; thence westerly along Wilson Street to Mary Street; thence southerly along Mary Street to King Street; thence westerly along King Street to James Street; thence southerly along James Street and southwesterly on James Street Mountain Road to the brow of Hamilton Mountain; thence easterly along the brow of Hamilton Mountain to the southerly prolongation of Sherman Avenue; thence northerly along the said prolongation and Sherman Avenue to Main Street; thence easterly along Main Street to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON EAST—consists of that portion of the City of Hamilton lying within the following limits: Commencing at the intersection of Ottawa Street and Main Street; thence westerly along Main Street to Sherman Avenue; thence southerly along Sherman Avenue and its southerly prolongation to the brow of Hamilton Mountain; thence easterly and southeasterly along the brow of Hamilton Mountain to the easterly prolongation of Mohawk Road; thence westerly along the said prolongation and Mohawk Road to the westerly boundary of King's Forest Park; thence southerly and easterly along the westerly and southerly boundary of King's Forest Park to Mud Street; thence easterly along Mud Street to Albion Road; thence northerly along Albion Road to King Street; thence easterly along King Street to Pottruff Road; thence northeasterly along Pottruff Road to Barton Street; thence easterly along Barton Street to Nash Road; thence northerly along Nash Road and its northerly prolongation to the water's edge of Lake Ontario; thence northwesterly along the shore of Lake Ontario to the northerly limit of the City of Hamilton; thence southwesterly along the northerly limit of the City of Hamilton to its intersection with the northerly prolongation of Wellington Street; thence northeasterly along the centre line of Hamilton Harbour to its intersection with the northerly prolongation of Ottawa Street; thence southerly along the last-mentioned prolongation and Ottawa Street to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON MOUNTAIN—consists of that portion of the City of Hamilton lying within the following limits: Commencing at the intersection of the westerly limit of the City of Hamilton and Mohawk Road; thence easterly along Mohawk Road and the easterly prolongation of Mohawk Road to the brow of Hamilton Mountain; thence northwesterly and westerly along the brow of Hamilton Mountain to the westerly limit of the City of Hamilton; thence southeasterly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF HAMILTON WEST—consists of that portion of the City of Hamilton lying within the following limits: Commencing at the intersection of James Street and King Street; thence easterly along King Street to Mary Street; thence northerly on Mary Street

to Wilson Street; thence easterly on Wilson Street to Wellington Street; thence northerly along Wellington Street and the northerly prolongation of Wellington Street to the northerly limit of the City of Hamilton; thence westerly, southwesterly, southerly and easterly along the limits of the City of Hamilton to the brow of Hamilton Mountain; thence easterly along the brow of Hamilton Mountain to James Street Mountain Road; thence northeasterly along James Street Mountain Road and northerly along James Street to the point of commencement.

THE ELECTORAL DISTRICT OF HASTINGS—consists of that portion of the County of Hastings lying east and north of a line described as follows: Commencing at the intersection of the centre line of the Bay of Quinte, Lake Ontario and the southerly prolongation of the easterly limits of the City of Belleville; thence northerly along the said prolongation to the water's edge of the Bay of Quinte; thence northerly and westerly along the limits of the City of Belleville to the westerly boundary of the Township of Thurlow; thence northerly along the westerly boundary of the Township of Thurlow to the northwest angle thereof; thence westerly along the southerly boundary of the Township of Rawdon to the westerly boundary of the County of Hastings, the Town of Deseronto, and the villages of Bancroft, Deloro, Madoc, Marmora, Stirling and Tweed.

THE ELECTORAL DISTRICT OF HURON—consists of the townships of Goderich, Hay, Hullett, McKillop, Stanley, Stephen, Tuckersmith and Usborne, the towns of Clinton, Exeter, Goderich and Seaforth, and the villages of Bayfield, Hensall and Zurich.

THE ELECTORAL DISTRICT OF HURON-BRUCE—consists of the townships of Ashfield, Bruce, Carrick, Colborne, Culross, East Wawanosh, Greenock, Grey, Howick, Huron, Kincardine, Kinloss, Morris, Turnberry and West Wawanosh, the towns of Kincardine and Wingham and the villages of Blyth, Brussels, Lucknow, Mildmay and Teeswater.

THE ELECTORAL DISTRICT OF KENORA—consists of that portion of the Territorial District of Kenora and the Patricia Portion lying north and west of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America and the 4th Base Line; thence easterly along the 4th Base Line to the 6th Meridian Line; thence north along the 6th Meridian Line to the southwest angle of the Township of Wainwright; thence easterly along the southerly boundary of the said township to the westerly boundary to the Township of Zealand; thence southerly along the westerly boundary of the said township to the line between concessions 6 and 7 in the Township of Zealand; thence easterly along the said line to the southwest angle of the Township of Brownridge; thence easterly along the southerly boundaries of the townships of Brownridge, Laval and McAree to the southeast angle of the Township of McAree; thence easterly along a line surveyed by Ontario Land Surveyors Phillips and Benner in 1932 to the easterly boundary of the Territorial District of Kenora; thence northerly along the easterly boundary of the Territorial District of Kenora to the centre line of Lake St. Joseph; thence northerly along the 3rd Meridian Line and its prolongation northerly to the Interprovincial Boundary between the Provinces of Ontario and Manitoba, the towns of Dryden, Keewatin, Kenora and Sioux Lookout, and the improvement districts of Balmertown and Sioux Narrows.

THE ELECTORAL DISTRICT OF KENT—consists of the townships of Aldborough, Camden, Dunwich, Harwich, Howard, Orford and Zone, the towns of Blenheim, Bothwell, Dresden and Ridgetown, and the villages of Dutton, Erieau, Erie Beach, Highgate, Rodney, Thamesville and West Lorne.

THE ELECTORAL DISTRICT OF KINGSTON AND THE ISLANDS—consists of the townships of Amherst Island, Howe Island and Wolfe Island, the City of Kingston, and the islands in the St. Lawrence River within the County of Frontenac.

THE ELECTORAL DISTRICT OF KITCHENER—consists of that portion of the City of Kitchener lying within the following limits: Commencing at the intersection of the northerly limit of the City of Kitchener and Margaret Avenue; thence southeasterly along Margaret Avenue to the Canadian National Railway line; thence easterly along the said railway line to the easterly limit of the City of Kitchener; thence southerly, westerly, northerly and easterly along the limits of the City of Kitchener to the point of commencement.

THE ELECTORAL DISTRICT OF LAMBTON—consists of that portion of the County of Lambton lying east and south of a line described as follows: Commencing at the intersection of the westerly boundary of the County of Lambton and the northerly boundary of the Township of Moore; thence easterly along the northerly boundary of the Township of Moore to the northeast angle thereof; thence northerly along the westerly boundaries of the townships of Enniskillen and Plympton to the water's edge of Lake Huron, the towns of Forest and Petrolia, and the villages of Alvinston, Arkona, Courtright, Grand Bend, Oil Springs, Thedford, Watford and Wyoming.

THE ELECTORAL DISTRICT OF LANARK—consists of the County of Lanark including the Separated Town of Smiths Falls, the towns of Almonte, Carleton Place and Perth, and the Village of Lanark.

THE ELECTORAL DISTRICT OF LEEDS—consists of the County of Leeds, the City of Brockville, the Separated Town of Gananoque and the villages of Athens, Newboro' and Westport.

THE ELECTORAL DISTRICT OF LINCOLN—consists of the County of Lincoln, that portion of the City of St. Catharines lying south of a line described as follows: Commencing at the intersection of the westerly limit of the City of St. Catharines and the Canadian National Railway line; thence southeasterly along the said railway line to Glendale Avenue; thence northeasterly along Glendale Avenue to the easterly limit of the City of St. Catharines, and the towns of Beamsville, Grimsby and Niagara.

THE ELECTORAL DISTRICT OF LONDON NORTH—consists of that portion of the City of London lying within the following limits: Commencing at the intersection of the centre line of the Thames River and the southerly prolongation of Highbury Avenue; thence northerly along the said prolongation and Highbury Avenue to the Canadian National Railway line; thence northeasterly along the said railway line to Dundas Street; thence westerly along Dundas Street to Ashland Avenue; thence northerly along Ashland Avenue to the Canadian Pacific Railway line; thence northwesterly along the Canadian Pacific Railway line to Curry Street; thence northerly along Curry Street to Oxford Street; thence easterly along Oxford Street to Highbury Avenue; thence northerly along Highbury Avenue to the northerly limit of the City of London; thence westerly along the northerly limit of the City of London to the centre line of the Medway River; thence southerly and easterly along the centre line of the Medway River to the centre line of the North Thames River; thence southerly along the centre line of the North Thames River to the centre line of the Thames River; thence easterly along the centre line of the Thames River to the point of commencement.

THE ELECTORAL DISTRICT OF LONDON SOUTH—consists of that portion of the City of London lying south and west of a line described as follows: Commencing at the intersection of the centre line of the Medway River and the northerly limit of the City of London; thence southerly and easterly along the centre line of the Medway River to the centre line of the North Thames River; thence southerly along the centre line of the North Thames River to the centre line of the Thames River; thence easterly along the centre line of the Thames River to its intersection with the easterly limit of the City of London.

THE ELECTORAL DISTRICT OF MIDDLESEX NORTH—consists of the townships of Biddulph, East Williams, Lobo, London, McGillivray, West Nissouri, West Williams and that portion of the City of London lying east and north of a line described as follows: Commencing at the intersection of the northerly limit of the City of London and Highbury Avenue; thence southerly along Highbury Avenue to Oxford Street; thence westerly along Oxford Street to Curry Street; thence southerly along Curry Street to the Canadian Pacific Railway line; thence southeasterly along the said railway line to Ashland Avenue; thence southerly along Ashland Avenue to Dundas Street; thence easterly along Dundas Street to its intersection with the easterly limit of the City of London, the Town of Parkhill, and the villages of Ailsa Craig and Lucan.

THE ELECTORAL DISTRICT OF MIDDLESEX SOUTH—consists of the townships of Adelaide, Caradoc, Delaware, Ekfrid, Metcalfe, Mosa, North Dorchester and Westminster, that portion of the City of London lying south of a line described as follows: Commencing at the intersection of Dundas Street and the easterly limit of the City of London; thence westerly along Dundas Street to the Canadian National Railway line; thence southwesterly along the said railway line to Highbury Avenue; thence southerly along Highbury Avenue and the southerly prolongation of Highbury Avenue to the centre line of the Thames River, the Town of Strathroy, and the villages of Glencoe, Newbury and Wardsville.

THE ELECTORAL DISTRICT OF MUSKOKA—consists of the Territorial District of Muskoka except the Township of Baxter, and to include the towns of Bala, Bracebridge, Gravenhurst and Huntsville, and the villages of Port Carling, Port Sydney and Windermere.

THE ELECTORAL DISTRICT OF NIAGARA FALLS—consists of the Township of Willoughby, the City of Niagara Falls, and the Village of Chippawa.

THE ELECTORAL DISTRICT OF NICKEL BELT—consists of that portion of the Territorial District of Sudbury lying north and west of a line described as follows: Commencing at the intersection of the easterly boundary of the Territorial District of Sudbury and the southerly boundary of the Township of Janes; thence westerly along the southerly boundaries of the townships of Janes, Davis, Scadding and Maclennan to the southwest angle of the Township of Maclennan; thence northerly along the westerly boundary of the Township of Maclennan to the southeast angle of the Township of Norman; thence westerly along the southerly boundaries of the townships of Norman and Wisner to the southwest angle of the Township of Wisner; thence southerly along the easterly boundaries of the townships of Lumsden, Rayside, Snider, Waters, Eden, Bevin and Sale to the southerly boundary of the Territorial District of Sudbury; thence westerly along the said boundary to the southwest angle of the Township of Roosevelt; thence northerly along the westerly boundaries of the townships of Roosevelt and Truman to the northwest angle of the Township of Truman; thence westerly along the southerly boundaries of the townships of Nairn, Baldwin,

Shakespeare and Gough to the westerly boundary of the Territorial District of Sudbury, and the towns of Chelmsford, Levack and Lively.

THE ELECTORAL DISTRICT OF NIPISSING—consists of that portion of the Territorial District of Nipissing lying north of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the Provinces of Ontario and Quebec and the northerly boundary of the Township of Mattawan; thence westerly and southerly along the northerly and westerly boundaries of the said township to the southwest angle thereof; thence westerly along the southerly boundaries of the townships of Olrig, Phelps and Widdifield to the northeast angle of the Township of West Ferris; thence southerly and westerly along the easterly and southerly boundaries of the said township to the southerly boundary of the Territorial District of Nipissing, the City of North Bay, and the towns of Cache Bay and Sturgeon Falls.

THE ELECTORAL DISTRICT OF NORTHUMBERLAND—consists of the County of Northumberland, excluding that portion lying within the Town of Trenton, but including the towns of Campbellford and Cobourg, and the villages of Brighton, Colborne and Hastings.

THE ELECTORAL DISTRICT OF ONTARIO—consists of the townships of Brock, Georgina, Mara, North Gwillimbury, Rama, Reach, Scott, Scugog, Thorah and Uxbridge, the Town of Uxbridge, and the villages of Beaverton, Cannington, Port Perry and Sutton.

THE ELECTORAL DISTRICT OF ONTARIO SOUTH—consists of the townships of East Whitby, Pickering and Whitby, the towns of Ajax and Whitby, and the Village of Pickering.

THE ELECTORAL DISTRICT OF OSHAWA—consists of the City of Oshawa.

THE ELECTORAL DISTRICT OF OTTAWA CENTRE—consists of that portion of the City of Ottawa lying within the following limits: Commencing at the intersection of the northerly prolongation of the centre line of the Rideau Canal with the Interprovincial Boundary; thence westerly along the said Interprovincial Boundary to the northerly prolongation of Parkdale Avenue; thence southerly along the said prolongation and Parkdale Avenue to Wellington Street; thence westerly along Wellington Street to Holland Avenue; thence southerly along Holland Avenue to the Queensway; thence southwesterly along the Queensway to Kirkwood Avenue; thence southerly along Kirkwood Avenue to Carling Avenue; thence easterly along Carling Avenue to Bronson Avenue; thence northerly along Bronson Avenue to the Queensway; thence easterly along the Queensway to the centre line of the Rideau Canal; thence northeasterly and northerly along the centre line of the Rideau Canal and the northerly prolongation of the centre line of the Rideau Canal to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA EAST—consists of the City of Eastview and that portion of the City of Ottawa lying within the following limits: Commencing at the intersection of the Interprovincial Boundary between the Provinces of Ontario and Quebec and the northerly prolongation of the centre line of the Rideau Canal; thence southerly and southeasterly along the said prolongation and the centre line of the Rideau Canal to the westerly prolongation of Mann Avenue; thence easterly along the said prolongation of Mann Avenue to the centre line of the Rideau River; thence northerly along the centre line of the Rideau River to the northwest angle of the limits of the City of Vanier; thence easterly along the northerly limit of the City of Vanier to the southwest angle of the limits of the Village of Rockcliffe Park; thence northerly and westerly along the limits of the Village of Rockcliffe Park to Sussex Drive; thence

westerly along Sussex Drive to Rideau Gate; thence westerly along the westerly prolongation of Rideau Gate to the Interprovincial Boundary between the Provinces of Ontario and Quebec; thence southeasterly along the said Interprovincial Boundary to the point of commencement.

THE ELECTORAL DISTRICT OF OTTAWA SOUTH—consists of that portion of the City of Ottawa lying west and south of a line described as follows: Commencing at the intersection of the easterly limit of the City of Ottawa and Walkley Road; thence westerly along Walkley Road to Russell Road; thence northwesterly along Russell Road to St. Laurent Boulevard; thence northerly along St. Laurent Boulevard to the Canadian Pacific Railway line; thence northwesterly along the said railway line to Avenue "R"; thence northerly along Avenue "R" to Tremblay Road; thence westerly along Tremblay Road to Belfast Road; thence northerly along Belfast Road to the Queensway; thence westerly along the Queensway to the centre line of the Rideau River; thence northerly along the centre line of the Rideau River to the easterly prolongation of Mann Avenue; thence westerly along Mann Avenue and the westerly prolongation of Mann Avenue to the centre line of the Rideau Canal; thence southwesterly along the centre line of the Rideau Canal to the Queensway; thence westerly along the Queensway to Bronson Avenue; thence southerly along Bronson Avenue to Carling Avenue; thence westerly along Carling Avenue to Fisher Avenue; thence southerly along Fisher Avenue to the easterly prolongation of the southerly limit of the City of Ottawa; thence westerly along the said prolongation to the westerly limit of the City of Ottawa.

THE ELECTORAL DISTRICT OF OTTAWA WEST—consists of that portion of the City of Ottawa lying west of a line described as follows: Commencing at the intersection of the westerly limit of the City of Ottawa and the southerly limit of the City of Ottawa west of Fisher Avenue; thence easterly along the easterly prolongation of the southerly limit of the City of Ottawa to Fisher Avenue; thence northerly along Fisher Avenue to Carling Avenue; thence westerly along Carling Avenue to Kirkwood Avenue; thence northerly along Kirkwood Avenue to the Queensway; thence northeasterly along the Queensway to Holland Avenue; thence northerly along Holland Avenue to Wellington Street; thence easterly along Wellington Street to Parkdale Avenue; thence northerly along Parkdale Avenue and the northerly prolongation of Parkdale Avenue to the Interprovincial Boundary between the Provinces of Ontario and Quebec.

THE ELECTORAL DISTRICT OF OXFORD—consists of the County of Oxford, excluding the Township of Blenheim, but including the City of Woodstock, the Separated Town of Ingersoll, the whole of the Town of Tillsonburg, and the villages of Beachville, Embro, Norwich and Tavistock.

THE ELECTORAL DISTRICT OF PARRY SOUND—consists of the Territorial District of Parry Sound and that portion of the Territorial District of Nipissing lying south and west of a line described as follows: Commencing at the intersection of the southerly boundary of the Territorial District of Nipissing and the southerly boundary of the Township of Sproule; thence easterly along the southerly boundary of the Township of Sproule to the southeast angle thereof; thence northerly along the easterly boundaries of the townships of Sproule, Bower, Freswick, Lister, Boyd and Papineau to the Interprovincial Boundary between the Provinces of Ontario and Quebec; thence northwesterly along the said Interprovincial Boundary to the northeast angle of the Township of Mattawan; thence westerly and southerly along the northerly and westerly boundaries of the said Township to the southwest angle of the Township of Mattawan;

thence westerly along the northerly boundaries of the townships of Calvin, Bonfield and East Ferris to the northwesterly angle of the Township of East Ferris; thence southerly and westerly along the westerly boundary of the said Township to its intersection with the westerly boundary of the Territorial District of Nipissing, the towns of Bonfield, Kearney, Mattawa, Parry Sound, Powassan and Trout Creek, and the villages of Burk's Falls, Magnetawan, Rosseau, South River and Sundridge.

THE ELECTORAL DISTRICT OF PEEL NORTH—consists of the townships of Albion, Caledon, Chinguacousy, Toronto Gore and that portion of the Township of Toronto described as follows: Wards 4 and 5 and that portion of Ward 6 lying north of Dundas Street, the towns of Brampton and Streetsville, and the villages of Bolton and Caledon East.

THE ELECTORAL DISTRICT OF PEEL SOUTH—consists of that portion of the Township of Toronto described as follows: Wards 1, 2, 3 and 7 and that portion of Ward 6 lying south of Dundas Street, and the Town of Port Credit.

THE ELECTORAL DISTRICT OF PERTH—consists of the County of Perth, the City of Stratford, the Separated Town of St. Mary's, the towns of Listowel, Mitchell and Palmerston, and the Village of Milverton.

THE ELECTORAL DISTRICT OF PETERBOROUGH—consists of the County of Peterborough, the City of Peterborough, and the villages of Havelock, Lakefield and Norwood.

THE ELECTORAL DISTRICT OF PORT ARTHUR—consists of that portion of the Territorial District of Thunder Bay lying within the following limits: Commencing at the southwest angle of the Township of Adrian; thence easterly along the southerly boundaries of Adrian and Conmee to the southeast angle of the Township of Conmee; thence southerly along the westerly boundary of the Township of Oliver to the southwest angle of the said township; thence easterly along the southerly boundaries of the townships of Oliver and McIntyre, the southerly limit of the City of Port Arthur and the easterly prolongation of the said limit to its intersection with the centre line of Thunder Bay of Lake Superior; thence south astronomically to the International Boundary between Canada and the United States of America; thence northeasterly along the said International Boundary to a point due south of the centre line of Black Bay of Lake Superior; thence north astronomically to the centre line of the said Bay; thence northeasterly along the centre line of Black Bay to the easterly prolongation of the northerly boundary of the Township of McTavish, thence westerly along the said prolongation and the northerly boundary of the Township of McTavish to the northwest angle of the said township; thence southerly along the westerly boundary of the Township of McTavish to the northeast angle of the Township of MacGregor; thence westerly along the northerly boundary of the said township to the northeast angle thereof; thence northerly and westerly along the easterly and northerly boundaries of the Township of Gorham to the southeast angle of the Township of Jacques; thence northerly along the easterly boundary of the Township of Jacques to the northeast angle of the said township; thence westerly along the northerly boundaries of the townships of Jacques and Fowler to the northwest angle of the Township of Fowler; thence southerly along the westerly boundary of the Township of Fowler to the northerly boundary of the Township of Forbes; thence westerly along the northerly boundaries of the townships of Forbes and Goldie to the northwest angle of the Township of Goldie; thence southerly along the westerly boundaries of the townships of Goldie, Horne and Adrian to the point of commencement, and the City of Port Arthur.

THE ELECTORAL DISTRICT OF PRESCOTT AND RUSSELL—consists of the County of Russell, the townships of Alfred, Caledonia, Longueuil, Plantagenet North, Plantagenet South and that portion of the Township of West Hawkesbury lying northeast of a line described as follows: Commencing at the intersection of the westerly boundary of the Township of West Hawkesbury and the road between concessions 2 and 3; thence easterly along the said road to the easterly boundary of the Township of West Hawkesbury, the towns of Hawkesbury and Rockland, and the villages of Alfred, Casselman, L'Orignal, Plantagenet and St. Isidore de Prescott.

THE ELECTORAL DISTRICT OF PRINCE EDWARD-LENNOX—consists of the county of Prince Edward, the townships of Adolphustown, Ernestown, North Fredericksburgh, Richmond and South Fredericksburgh, the towns of Napanee and Picton, and the villages of Bath, Bloomfield and Wellington.

THE ELECTORAL DISTRICT OF QUINTE—consists of the Township of Sidney, the City of Belleville, the Separated Town of Trenton, and the Village of Frankford.

THE ELECTORAL DISTRICT OF RAINY RIVER—consists of the Territorial District of Rainy River and that portion of the Territorial District of Kenora lying south of a line described as follows: Commencing at the intersection of the International Boundary between Canada and the United States of America, and the 4th Base Line; thence easterly along the 4th Base Line to the 6th Meridian Line; thence northerly along the 6th Meridian Line to the northwest angle of the Township of Van Horne; thence easterly and southerly along the northerly and easterly boundaries of the said Township to the line between Concessions 6 and 7 in the Township of Zealand; thence easterly along the said line to the southwest angle of the Township of Brownridge; thence easterly along the northerly boundaries of the townships of Zealand, Hartman and MacFie to the northeast angle of the Township of MacFie; thence easterly along a line surveyed by Ontario Land Surveyors Phillips and Benner in 1932, to the easterly boundary of the Territorial District of Kenora, the towns of Fort Frances and Rainy River, and the improvement districts of Kingsford and Barclay.

THE ELECTORAL DISTRICT OF RENFREW NORTH—consists of that portion of the County of Renfrew lying north of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the Provinces of Ontario and Quebec and the southerly boundary of the Township of Ross; thence westerly and northerly along the southerly and westerly boundaries of the Township of Ross to the southeast angle of the Township of Bromley; thence westerly and northerly along the southerly and westerly boundaries of the Township of Bromley to the centre line of the Bonnechere River; thence northwesterly along the centre lines of the Bonnechere River and Golden Lake to the westerly boundary of the Township of North Algona; thence northerly along the westerly boundaries of the townships of North Algona and Fraser to the westerly boundary of the County of Renfrew; and that portion of the Territorial District of Nipissing lying east of a line described as follows: Commencing at the intersection of the southerly boundary of the Territorial District of Nipissing and the southerly boundary of the Township of Sproule; thence easterly along the southerly boundary of the said Township of Sproule to the southeast angle thereof; thence northerly along the westerly boundaries of the townships of Preston, Dickson, Anglin, Deacon and Cameron to the Interprovincial Boundary between the Provinces of Ontario and Quebec, the towns of Deep River and Pembroke, and the villages of Beachburg, Chalk River and Petawawa.

THE ELECTORAL DISTRICT OF RENFREW SOUTH—consists of that portion of the County of Renfrew lying south of a line described as follows: Commencing at the intersection of the Interprovincial Boundary between the Province of Ontario and Quebec and the northerly boundary of the Township of Horton; thence westerly along the northerly boundary of the said township to the easterly boundary of the Township of Admaston; thence northerly along the easterly boundary of the said township to the northeast angle thereof; thence westerly along the northerly boundary of the Township of Admaston to the easterly boundary of the Township of Grattan; thence northerly along the easterly boundary of the said township to the centre line of the Bonnechere River; thence northwesterly along the centre lines of the Bonnechere River and Golden Lake to the easterly boundary of the Township of Hagarty; thence northerly along the easterly boundaries of the townships of Hagarty and Richards to the westerly boundary of the County of Renfrew, the towns of Arnprior and Renfrew, and the villages of Barry's Bay, Braeside, Eganville and Killaloe Station.

THE ELECTORAL DISTRICT OF ST. CATHARINES—consists of that portion of the City of St. Catharines lying north of a line described as follows: Commencing at the intersection of the westerly limit of the City of St. Catharines and the Canadian National Railway line; thence southeasterly along the said railway line to Glendale Avenue; thence northeasterly along Glendale Avenue to the easterly limit of the City of St. Catharines.

THE ELECTORAL DISTRICT OF SANDWICH-RIVERSIDE—consists of,

(*a*) those portions of the City of Windsor lying south and east of a line described as follows: Commencing at the intersection of the westerly prolongation of Chappus Street with the International Boundary between Canada and the United States of America; thence easterly along the said prolongation and continuing easterly along Chappus Street to Matchette Road; thence southerly along Matchette Road to Alberta Street; thence easterly along Alberta Street to Malden Road; thence southerly along Malden Road to the City limit; thence easterly following the City limit to Cabana Road; thence easterly along Cabana Road to Howard Avenue; thence northerly along Howard Avenue and continuing northerly along McDougall Street to the Canadian Pacific Railway line; thence easterly along the Canadian Pacific Railway line and continuing easterly along Grand Marais Road to Chrysler Center; thence northerly along Chrysler Center to Tecumseh Boulevard; thence easterly along Tecumseh Boulevard to the west side of Westminster Boulevard; thence northerly along the west side of Westminster Boulevard and continuing northerly along the prolongation thereof to the International Boundary between Canada and the United States of America, so that both sides of Westminster Boulevard are included;

(*b*) the townships of Sandwich South and Sandwich West and the Town of Tecumseh.

THE ELECTORAL DISTRICT OF SARNIA—consists of the Township of Sarnia, the City of Sarnia, and the Village of Point Edward.

THE ELECTORAL DISTRICT OF SAULT STE. MARIE—consists of the townships of Awenge, Korah, Parke and Tarentorus, and the City of Sault Ste. Marie.

THE ELECTORAL DISTRICT OF SIMCOE CENTRE—consists of the townships of Flos, Innisfil, Sunnidale, Tiny, Vespra, and West Gwillimbury, the City of Barrie, the towns of Bradford and Penetanguishene, and the villages of Cookstown, Elmvale and Wasaga Beach.

THE ELECTORAL DISTRICT OF SIMCOE EAST—consists of the townships of Baxter, Matchedash, Medonte, Orillia, Oro, and Tay, the towns of Midland and Orillia, and the villages of Coldwater, Port McNicoll and Victoria Harbour.

THE ELECTORAL DISTRICT OF STORMONT—consists of the townships of Cornwall and Osnabruck, and the City of Cornwall.

THE ELECTORAL DISTRICT OF SUDBURY—consists of that portion of the City of Sudbury lying north of a line described as follows: Commencing at the intersection of the easterly limit of the City of Sudbury and the Trans-Canada Highway (Highway No. 17); thence westerly along the said highway to the northerly prolongation of Wessex Street; thence southerly along the said prolongation, Wessex Street and the southerly prolongation of Wessex Street to the water's edge of Ramsey Lake; thence southwesterly along the shore of Ramsey Lake to the centre line of Lily Creek; thence southwesterly along the centre line of Lily Creek to the intersection of the centre line of Lily Creek and Martindale Road; thence westerly in a straight line to the intersection of Kelley Lake Road and the centre line of Junction Creek; thence northwesterly along the centre line of Junction Creek to the westerly limit of the City of Sudbury.

THE ELECTORAL DISTRICT OF SUDBURY EAST—consists of that portion of the Territorial District of Sudbury lying south and east of a line described as follows: Commencing at the intersection of the easterly boundary of the Territorial District of Sudbury and the northerly boundary of the Township of Henry; thence westerly along the northerly boundaries of the townships of Henry, Loughrin, Street and Falconbridge to the northwest angle of the Township of Falconbridge; thence northerly along the easterly boundary of the Township of Capreol to the northeast angle thereof; thence westerly along the northerly boundaries of the townships of Capreol and Hanmer to the northwest angle of the Township of Hanmer; thence southerly along the westerly boundaries of the townships of Hanmer and Blezard to the southwest angle of the Township of Blezard; thence easterly, southerly and westerly along the limits of the City of Sudbury to the southwest angle of the said limits; thence southerly along the westerly boundaries of the townships of Broder, Tilton, Halifax and Attlee to the southerly boundary of the Territorial District of Sudbury and including that portion of the City of Sudbury lying south of a line described as follows: Commencing at the intersection of the easterly limit of the City of Sudbury and the Trans-Canada Highway (Highway No. 17); thence westerly along the said highway to the northerly prolongation of Wessex Street; thence southerly along the said prolongation, Wessex Street and the southerly prolongation of Wessex Street to the water's edge of Ramsey Lake; thence southwesterly along the shore of Ramsey Lake to the centre line of Lily Creek; thence southwesterly along the centre line of Lily Creek to the intersection of Martindale Road; thence westerly in a straight line to the intersection of Kelley Lake Road and the centre line of Junction Creek; thence northwesterly along the centre line of Junction Creek to the westerly limit of the City of Sudbury, and the towns of Capreol, Coniston and Copper Cliff.

THE ELECTORAL DISTRICT OF THUNDER BAY—consists of that portion of the Territorial District of Thunder Bay lying west, north and east of a line described as follows: Commencing at a point on the International Boundary between Canada and the United States of America

due south of the centre line of Black Bay of Lake Superior; thence north astronomically to the centre line of the said Bay; thence northeasterly along the centre line of Black Bay to the intersection of the said centre line and the easterly prolongation of the northerly boundary of the Township of McTavish; thence westerly along the said prolongation and the northerly boundary of the Township of McTavish to the northwest angle of the said township; thence southerly along the westerly boundary of the Township of McTavish to the northeast angle of the Township of MacGregor; thence westerly along the northerly boundary of the said township to the northwest angle thereof; thence northerly and westerly along the easterly and northerly boundaries of the Township of Gorham to the southeast angle of the Township of Jacques; thence northerly along the easterly boundary of the Township of Jacques to the northeast angle of the said township; thence westerly along the northerly boundaries of Jacques and Fowler to the northwest angle of the Township of Fowler; thence southerly along the westerly boundary of the Township of Fowler to the northerly boundary of the Township of Forbes; thence westerly along the northerly boundaries of the townships of Forbes and Goldie to the northwest angle of the Township of Goldie; thence southerly along the westerly boundaries of the townships of Goldie, Horne, Adrian, Marks, Lybster, Fraleigh and Devon to the International Boundary between Canada and the United States of America and that portion of the Territorial District of Kenora (Patricia Portion) lying between the northerly prolongations of the easterly and westerly boundaries of the Territorial District of Thunder Bay to the northern limits of the Province of Ontario, the Town of Geraldton, and the improvement districts of Beardmore, Dorion, Manitouwadge, Marathon, Nakina and Red Rock.

THE ELECTORAL DISTRICT OF TIMISKAMING—consists of the Territorial District of Timiskaming, and the towns of Charlton, Cobalt, Englehart, Haileybury, Latchford and New Liskeard.

THE ELECTORAL DISTRICT OF VICTORIA-HALIBURTON—consists of the County of Victoria and the Provisional County of Haliburton, the Town of Lindsay, the villages of Bobcaygeon, Fenelon Falls, Omemee, Sturgeon Point and Woodville, and the Improvement District of Bicroft.

THE ELECTORAL DISTRICT OF WATERLOO NORTH—consists of the townships of Wellesley, Wilmot, Woolwich and that portion of the Township of Waterloo lying northwest of a line described as follows: Commencing at the intersection of the easterly boundary of the Township of Waterloo and the road in Lot 91; thence westerly between lots 91 and 92 and through lots 89, 101, 127 and along the said road north of lots 32 and 17 to the road from Hagey Station; thence southerly along that road to the Grand River Railway line; thence easterly and southerly along the said railway line to the northerly limit of the Town of Preston; thence westerly, southerly, easterly and southerly along the limits of the Town of Preston to the southerly boundary of the Township of Waterloo, the City of Waterloo and that portion of the City of Kitchener lying northeast of a line described as follows: Commencing at the intersection of the northerly limit of the City of Kitchener and Margaret Avenue; thence southeasterly along Margaret Avenue to the Canadian National Railway line; thence easterly along the said railway line to the easterly limit of the City of Kitchener; the Town of Elmira, and the villages of Bridgeport, New Hamburg and Wellesley.

THE ELECTORAL DISTRICT OF WATERLOO SOUTH—consists of the Township of North Dumfries and that portion of the Township of Waterloo lying southeast of a line described as follows: Commencing at the intersection of the easterly boundary of the Township of Waterloo and the road in Lot 91; thence westerly between lots 91 and 92 and through lots 89, 101, 127, and along said road north of lots 32 and 17

to the road from Hagey Station; thence southerly along that road to the Grand River Railway line; thence easterly and southerly along the said railway line to the northerly limit of the Town of Preston; thence westerly, southerly, easterly and southerly along the limits of the Town of Preston to the southerly boundary of the Township of Waterloo, the City of Galt, the towns of Hespeler and Preston, and the Village of Ayr.

THE ELECTORAL DISTRICT OF WELLAND—consists of the townships of Crowland and Thorold, the City of Welland, the Town of Thorold, and the Village of Fonthill.

THE ELECTORAL DISTRICT OF WELLAND SOUTH—consists of the townships of Bertie, Humberstone, Pelham and Wainfleet, the towns of Fort Erie and Port Colborne, and the Village of Crystal Beach.

THE ELECTORAL DISTRICT OF WELLINGTON-DUFFERIN—consists of the townships of Amaranth, Arthur, East Garafraxa, East Luther, Eramosa, Erin, Maryborough, Melancthon, Minto, Peel, West Garafraxa and West Luther, the towns of Harriston and Mount Forest, and the villages of Arthur, Clifford, Drayton, Erin, Grand Valley and Shelburne.

THE ELECTORAL DISTRICT OF WELLINGTON SOUTH—consists of the townships of Guelph, Nichol, Pilkington and that part of the Township of Puslinch lying north of the Macdonald-Cartier Freeway (Highway 401), the City of Guelph, the Town of Fergus, and the Village of Elora.

THE ELECTORAL DISTRICT OF WENTWORTH—consists of the townships of Binbrook, Glanford, Saltfleet and that portion of the City of Hamilton lying south and east of a line described as follows: Commencing at the intersection of the westerly limit of the City of Hamilton and the Mohawk Road; thence easterly along Mohawk Road to the westerly boundary of King's Forest Park; thence southerly and easterly along the boundary of King's Forest Park to Mud Sreet; thence easterly along Mud Street to Albion Road; thence northerly along Albion Road to King Street; thence easterly along King Street to Pottruff Road; thence northeasterly along Pottruff Road to Barton Street; thence easterly along Barton Street to Nash Road; thence northerly along Nash Road and its northerly prolongation to the waters of Lake Ontario, the Town of Stoney Creek.

THE ELECTORAL DISTRICT OF WENTWORTH NORTH—consists of the townships of Ancaster, Beverly, East Flamborough, West Flamborough and that portion of the Township of Puslinch lying south of the Macdonald-Cartier Freeway (Highway 401), the Town of Dundas, and the Village of Waterdown.

THE ELECTORAL DISTRICT OF WINDSOR-WALKERVILLE—consists of that portion of the City of Windsor lying within the following limits: Commencing at the intersection of the prolongation of Ouellette Avenue with the International Boundary between Canada and the United States of America; thence southerly along said prolongation and Ouellette Avenue to Wyandotte Street East; thence easterly along Wyandotte Street East to Mercer Street; thence southerly along Mercer Street to Elliott Street East; thence easterly along Elliott Street East to Howard Street; thence southerly along Howard Street to Giles Boulevard; thence westerly along Giles Boulevard to Dufferin Street; thence southerly along Dufferin Street to Tecumseh Boulevard East; thence easterly along Tecumseh Boulevard East to McDougall Street; thence southerly along McDougall Street to the Canadian Pacific Railway line; thence

easterly along the Canadian Pacific Railway line and continuing easterly along Grand Marais Road to Chrysler Center; thence northerly along Chrysler Center to Tecumseh Boulevard East; thence easterly along Tecumseh Boulevard East to the west side of Westminster Boulevard; thence northerly along the west side of Westminster Boulevard and continuing northerly along the prolongation thereof to the International Boundary between Canada and the United States of America, so that both sides of Westminster Boulevard are excluded.

THE ELECTORAL DISTRICT OF WINDSOR WEST—consists of that portion of the City of Windsor lying within the following limits: Commencing at the intersection of the westerly prolongation of Chappus Street with the International Boundary between Canada and the United States of America; thence easterly along the said prolongation and Chappus Street to Matchette Road; thence southerly along Matchette Road to Alberta Street; thence easterly along Alberta Street to Malden Road; thence southerly along Malden Road to the City limit; thence easterly following the City limit to its intersection with Cabana Road; thence easterly along Cabana Road to Howard Avenue; thence northerly along Howard Avenue and continuing northerly along McDougall Street to Tecumseh Boulevard; thence westerly along Tecumseh Boulevard to Dufferin Street; thence northerly along Dufferin Street to Giles Boulevard; thence easterly along Giles Boulevard to Howard Street; thence northerly along Howard Street to Elliott Street East; thence westerly along Elliott Street East to Mercer Street; thence northerly along Mercer Street to Wyandotte Street; thence westerly along Wyandotte Street to Ouellette Avenue; thence northerly along Ouellette Avenue and the prolongation of Ouellette Avenue to its intersection with the International Boundary between Canada and the United States of America.

THE ELECTORAL DISTRICT OF YORK CENTRE—consists of the townships of Markham and Vaughan, the Town of Richmond Hill, and the villages of Markham and Woodbridge.

THE ELECTORAL DISTRICT OF YORK NORTH—consists of the townships of East Gwillimbury, King and Whitchurch, the towns of Aurora and Newmarket, and the Village of Stouffville.

Metropolitan Toronto:

THE ELECTORAL DISTRICT OF ARMOURDALE—consists of that portion of the Borough of North York lying between Bathurst Street and Yonge Street.

THE ELECTORAL DISTRICT OF BEACHES-WOODBINE—consists of that portion of the City of Toronto lying east of a line described as follows: Commencing at the intersection of the northerly limit of the City of Toronto and Coxwell Avenue; thence southerly along Coxwell Avenue to Danforth Avenue; thence westerly along Danforth Avenue to Rhodes Avenue; thence southerly along Rhodes Avenue to Queen Street East; thence easterly along Queen Street East to Coxwell Avenue; thence southerly along Coxwell Avenue and the southerly prolongation of Coxwell Avenue to the water's edge of Ashbridges Bay of Lake Ontario; thence southwesterly along the centre line of Ashbridges Bay to the centre line of the channel known as Coatsworth Cut; thence along the centre line of the said channel to the main waters of Lake Ontario.

THE ELECTORAL DISTRICT OF BELLWOODS—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the northerly limit of the City of Toronto and

Alberta Avenue; thence southerly along Alberta Avenue to Davenport Road; thence easterly along Davenport Road to Ossington Avenue; thence southerly along Ossington Avenue to Bruce Street; thence easterly along Bruce Street to Givins Street; thence southerly along Givins Street to Queen Street West; thence easterly along Queen Street West to Shaw Street; thence southerly along Shaw Street and the southerly prolongation of Shaw Street to a point in Lake Ontario intersected by the southwesterly prolongation of the centre line of the channel known as the Western Gap; thence northeasterly along the said southwesterly prolongation and the centre line of the Western Gap to the intersection of the said centre line and the southerly prolongation of Tecumseh Street; thence northerly along the said southerly prolongation, Tecumseh Street and Palmerston Avenue to the Canadian Pacific Railway line; thence easterly along the said railway line to Bathurst Street; thence northerly along Bathurst Street to the northerly limit of the City of Toronto; thence westerly along the said limit to the point of commencement.

THE ELECTORAL DISTRICT OF DON MILLS—consists of,

(*a*) that portion of the Borough of North York lying south of Lawrence Avenue East;

(*b*) that portion of the Borough of East York lying east of a line described as follows: Commencing at the intersection of Woodbine Avenue and the north limit of the City of Toronto; thence northerly along Woodbine Avenue and continuing northerly along the prolongation of Woodbine Avenue to Woodbine Heights Boulevard; thence northerly along Woodbine Heights Boulevard and continuing northerly along the prolongation of Woodbine Heights Boulevard to the north boundary of the Borough of East York.

THE ELECTORAL DISTRICT OF DOVERCOURT—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of Alberta Avenue and the northerly limit of the City of Toronto; thence westerly along the northerly limit of the City of Toronto to Harvie Avenue; thence southerly along Harvie Avenue to St. Clair Avenue West; thence easterly along St. Clair Avenue West to Greenlaw Avenue; thence southerly on Greenlaw Avenue to Davenport Road; thence westerly along Davenport Road to Primrose Avenue; thence southerly along Primrose Avenue and Emerson Avenue to Wallace Avenue; thence easterly along Wallace Avenue to Brock Avenue; thence southerly on Brock Avenue to Bloor Street West; thence westerly along Bloor Street West to Brock Avenue; thence southerly along Brock Avenue to Queen Street West; thence easterly along Queen Street West to Elm Grove Avenue; thence southerly along Elm Grove Avenue to King Street West; thence westerly along King Street West to Spencer Avenue; thence southerly along Spencer Avenue and the southerly prolongation of Spencer Avenue to the waters of Lake Ontario; thence easterly along the shore of Lake Ontario to the intersection of the said lake shore and the southerly prolongation of Shaw Street; thence northerly along the said prolongation and Shaw Street to Queen Street West; thence westerly along Queen Street West to Givins Street; thence northerly along Givins Street to Bruce Street; thence westerly along Bruce Street to Ossington Avenue; thence northerly along Ossington Avenue to Davenport Road; thence westerly along Davenport Road to Alberta Avenue; thence northerly along Alberta Avenue to the point of commencement.

THE ELECTORAL DISTRICT OF DOWNSVIEW—consists of that portion of the Borough of North York lying between Bathurst Street and Keele Street.

THE ELECTORAL DISTRICT OF EGLINTON—consists of that portion of the City of Toronto lying north and east of a line described as follows:

Commencing at the intersection of the east limit of the City of Toronto and Davisville Avenue; thence westerly along Davisville Avenue to Yonge Street; thence southerly along Yonge Street to the Canadian National Railway line; thence westerly along the Canadian National Railway line to Avenue Road; thence northerly along Avenue Road to Hillhurst Boulevard; thence westerly along Hillhurst Boulevard to the westerly limit of the City of Toronto.

THE ELECTORAL DISTRICT OF ETOBICOKE—consists of that portion of the Borough of Etobicoke lying north of a line described as follows: Commencing at the intersection of the westerly boundary of the Borough of Etobicoke and the centre line of the median of the Macdonald-Cartier Freeway; thence easterly along the said centre line and the centre line of the roadway linking the Macdonald-Cartier Freeway with the Richview Side Road and the Richview Side Road and its easterly prolongation to the easterly limit of the Borough of Etobicoke.

THE ELECTORAL DISTRICT OF HIGH PARK—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the prolongation of Clendenan Avenue and the shore of Lake Ontario; thence northerly along said prolongation and Clendenan Avenue to Bloor Street West; thence westerly along Bloor Street West to the westerly limit of the City of Toronto; thence northerly and easterly following said city limit to its intersection with the Canadian National Railway line; thence southerly along said railway line to Dundas Street West; thence westerly along Dundas Street West to Sorauren Avenue; thence southerly along Sorauren Avenue and continuing southerly along Beaty Avenue to King Street West; thence easterly along King Street West to Dowling Avenue; thence southerly along Dowling Avenue and the prolongation of Dowling Avenue to the shore of Lake Ontario.

THE ELECTORAL DISTRICT OF HUMBER—consists of,

(*a*) that portion of the Borough of Etobicoke lying south and east of a line described as follows: Commencing at the intersection of Bloor Street West and the easterly boundary of the Borough of Etobicoke; thence westerly along Bloor Street West to Prince Edward Drive; thence southerly along Prince Edward Drive to Sunnydale Drive; thence westerly along Sunnydale Drive and continuing westerly along the prolongation of Sunnydale Drive to Royal York Road South; thence southerly along Royal York Road South to Queen Elizabeth Way; thence westerly along Queen Elizabeth Way to the northerly prolongation of St. George Street; thence southerly along said prolongation and St. George Street and continuing southerly along the southerly prolongation of St. George Street to Dwight Avenue; thence southerly along Dwight Avenue and the southerly prolongation of Dwight Avenue to the shore of Lake Ontario;

(*b*) that portion of the Borough of York lying south of a line described as follows: Commencing at the intersection of St. Clair Avenue West with the west boundary of the City of Toronto; thence westerly along St. Clair Avenue West to Scarlett Road; thence southerly along Scarlett Road to Dundas Street West; thence westerly along Dundas Street West to the boundary between the Borough of Etobicoke and the Borough of York;

(*c*) that portion of the City of Toronto lying south of Bloor Street West and west of a line described as follows: Commencing at the intersection of Bloor Street West and Clendenan Avenue; thence southerly along Clendenan Avenue and the southerly prolongation of Clendenan Avenue to the shore of Lake Ontario.

THE ELECTORAL DISTRICT OF LAKESHORE—consists of that portion of the Borough of Etobicoke lying south and west of a line described as follows: Commencing at the intersection of the westerly boundary of the Borough of Etobicoke and the Canadian Pacific Railway line; thence easterly along said railway line to Bloor Street West; thence easterly along Bloor Street West to Prince Edward Drive; thence southerly along Prince Edward Drive to Sunnydale Drive; thence westerly along Sunnydale Drive and continuing westerly along the prolongation of Sunnydale Drive to Royal York Road South; thence southerly along Royal York Road South to Queen Elizabeth Way; thence westerly along Queen Elizabeth Way to the northerly prolongation of St. George Street; thence southerly along said prolongation and St. George Street and continuing southerly along the southerly prolongation of St. George Street to Dwight Avenue; thence southerly along Dwight Avenue and the southerly prolongation of Dwight Avenue to the shore of Lake Ontario.

THE ELECTORAL DISTRICT OF PARKDALE—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the waters of Lake Ontario and the southerly prolongation of Spencer Avenue; thence northerly along the said prolongation and Spencer Avenue to King Street West; thence easterly along King Street West to Elm Grove Avenue; thence northerly along Elm Grove Avenue to Queen Street West; thence westerly along Queen Street West to Brock Avenue; thence northerly along Brock Avenue to Bloor Street West; thence easterly along Bloor Street West to Brock Avenue; thence northerly along Brock Avenue to Wallace Avenue; thence westerly along Wallace Avenue to Emerson Avenue; thence northerly along Emerson Avenue and Primrose Avenue to Davenport Road; thence easterly along Davenport Road to Greenlaw Avenue; thence northerly along Greenlaw Avenue to St. Clair Avenue West; thence westerly along St. Clair Avenue West to Harvie Avenue; thence northerly along Harvie Avenue to the northerly limit of the City of Toronto; thence westerly along the northerly limit of the City of Toronto to the Canadian National Railway line; thence southeasterly along the said railway line to Dundas Street West; thence northwesterly along Dundas Street West to Sorauren Avenue; thence southerly along Sorauren Avenue to Queen Street West; thence westerly along Queen Street West to Beaty Avenue; thence southerly along Beaty Avenue to King Street West; thence easterly along King Street West to Dowling Avenue; thence southerly along Dowling Avenue and the southerly prolongation of Dowling Avenue to the waters of Lake Ontario; thence southeasterly along the shore of Lake Ontario to the point of commencement.

THE ELECTORAL DISTRICT OF RIVERDALE—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the main waters of Lake Ontario and the centre line of the channel known as Coatsworth Cut; thence northwesterly along the centre line of the said channel to the centre line of Ashbridges Bay; thence northeasterly along the centre line of the said Bay to the southerly prolongation of Coxwell Avenue; thence northerly along the said prolongation of Coxwell Avenue to Queen Street East; thence westerly along Queen Street East to Rhodes Avenue; thence northerly along Rhodes Avenue to Danforth Avenue; thence easterly along Danforth Avenue to Coxwell Avenue; thence northerly along Coxwell Avenue to the northerly limit of the City of Toronto; thence westerly, northerly and westerly along the said northerly limit to Jackman Avenue; thence southerly along Jackman Avenue to Danforth Avenue; thence easterly along Danforth Avenue to Hampton Avenue; thence southerly along Hampton Avenue to Sparkhall Avenue; thence westerly along Sparkhall Avenue to Broadview Avenue; thence southerly along Broadview Avenue to Gerrard Street East; thence easterly along Gerard Street East to De Grassi Street; thence southerly along De Grassi Street to Queen Street East; thence easterly along Queen

Street East to Carlaw Avenue; thence southerly along Carlaw Avenue and the southerly prolongation of Carlaw Avenue to the waters of Lake Ontario; thence northeasterly along the shore of Lake Ontario to the point of commencement.

THE ELECTORAL DISTRICT OF ST. ANDREW-ST. PATRICK—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of Spadina Road and the easterly prolongation of the boundary between the City of Toronto and the Borough of York; thence westerly along said prolongation and boundary between the City of Toronto and Borough of York to Bathurst Street; thence southerly along Bathurst Street to the Canadian Pacific Railway line; thence westerly along the said railway line to Palmerston Avenue; thence southerly along Palmerston Avenue, Tecumseh Street and the southerly prolongation of Tecumseh Street to the centre line of the channel known as the Western Gap; thence southwesterly along the centre line of the said Channel to the main waters of Lake Ontario; thence southerly and easterly along the shore of Lake Ontario, including the Toronto Islands, to the centre line of the Channel known as the Eastern Gap; thence northwesterly along the centre line of the said Channel to the southerly prolongation of Parliament Street; thence northerly along the said prolongation to the water's edge of Toronto Harbour; thence along the northerly line of Toronto Harbour to the southerly prolongation of York Street; thence northerly along the said prolongation, York Street and University Avenue to Queen's Park Crescent; thence northerly along the easterly side of Queen's Park Crescent to Avenue Road; thence northerly along Avenue Road to the Canadian Pacific Railway line; thence westerly along the said railway line to Spadina Road; thence northerly along Spadina Road to the point of commencement.

THE ELECTORAL DISTRICT OF ST. DAVID—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the shore of Lake Ontario and the prolongation of Carlaw Avenue; thence northerly along said prolongation and Carlaw Avenue to Queen Street East; thence westerly along Queen Street East to De Grassi Street; thence northerly along De Grassi Street to Gerrard Street East; thence westerly along Gerrard Street East to Broadview Avenue; thence northerly along Broadview Avenue to Sparkhall Avenue; thence easterly along Sparkhall Avenue to Hampton Avenue; thence northerly along Hampton Avenue to Danforth Avenue; thence westerly along Danforth Avenue to Jackman Avenue; thence northerly along Jackman Avenue to the boundary between the City of Toronto and the Borough of East York; thence following said boundary westerly, northerly, easterly and northerly to Davisville Avenue; thence westerly along Davisville Avenue to Yonge Street; thence southerly along Yonge Street to Bloor Street East; thence easterly along Bloor Street East to Parliament Street; thence southerly along Parliament Street and continuing southerly along the prolongation of Parliament Street through the Eastern Channel to the shore of Lake Ontario; thence easterly following said shore to the point of commencement.

THE ELECTORAL DISTRICT OF ST. GEORGE—consists of that portion of the City of Toronto lying within the following limits: Commencing at the intersection of the prolongation of York Street and the shore of Lake Ontario; thence northerly along said prolongation and York Street and continuing northerly along University Avenue to Queen's Park Crescent; thence northerly along the easterly side of Queen's Park Crescent to Avenue Road; thence northerly along Avenue Road to the Canadian Pacific Railway line; thence westerly along the Canadian Pacific Railway line to Spadina Road; thence northerly along Spadina Road to Lonsdale Road; thence easterly along Lonsdale Road to Oriole Parkway; thence northerly along Oriole Parkway to the Canadian National Railway line; thence

southerly along the Canadian National Railway line to Yonge Street; thence southerly along Yonge Street to Bloor Street East; thence easterly along Bloor Street East to Parliament Street; thence southerly along Parliament Street and the prolongation of Parliament Street to the shore of Lake Ontario; thence westerly following said shore to the point of commencement.

THE ELECTORAL DISTRICT OF SCARBOROUGH CENTRE—consists of that portion of the Borough of Scarborough bounded on the north by Lawrence Avenue East, on the east by Markham Road and the southerly prolongation of Markham Road, on the south by the shore of Lake Ontario and on the west by a line described as follows: Commencing at the intersection of Lawrence Avenue East and Kennedy Road; thence southerly along Kennedy Road and continuing southerly along the prolongation of Kennedy Road to Wynnview Court; thence southerly along Wynnview Court and continuing southerly along the prolongation of Wynnview Court to the shore of Lake Ontario.

THE ELECTORAL DISTRICT OF SCARBOROUGH EAST—consists of that portion of the Borough of Scarborough lying east of Markham Road and the prolongation of Markham Road southerly to the shore of Lake Ontario.

THE ELECTORAL DISTRICT OF SCARBOROUGH NORTH—consists of that portion of the Borough of Scarborough bounded on the north and west by the boundary of the Borough of Scarborough, on the south by Lawrence Avenue East and on the east by Markham Road.

THE ELECTORAL DISTRICT OF SCARBOROUGH WEST—consists of that portion of the Borough of Scarborough bounded on the west by the west limit of the Borough of Scarborough, on the south by the shore of Lake Ontario, on the north by Lawrence Avenue East and on the east by a line described as follows: Commencing at the intersection of Lawrence Avenue East and Kennedy Road; thence southerly along Kennedy Road and continuing southerly along the prolongation of Kennedy Road to Wynnview Court; thence southerly along Wynnview Court and continuing southerly along the prolongation of Wynnview Court to the shore of Lake Ontario.

THE ELECTORAL DISTRICT OF YORK EAST—consists of that portion of the Borough of East York lying west of a line described as follows: Commencing at the intersection of Woodbine Avenue and the northerly limit of the City of Toronto; thence northerly along Woodbine Avenue and continuing northerly along the prolongation of Woodbine Avenue to Woodbine Heights Boulevard; thence northerly along Woodbine Heights Boulevard and continuing northerly along the prolongation of Woodbine Heights Boulevard to the north boundary of the Borough of East York.

THE ELECTORAL DISTRICT OF YORK-FOREST HILL—consists of,

(*a*) that portion of the Borough of York lying east of Dufferin Street;

(*b*) that portion of the City of Toronto lying east of the Borough of York and contained within a line described as follows: Commencing at the intersection of the west limit of the City of Toronto and Hillhurst Boulevard; thence easterly along Hillhurst Boulevard to Avenue Road; thence southerly along Avenue Road to the Canadian National Railway line; thence southeasterly along the Canadian National Railway line to Oriole Parkway; thence southerly along Oriole Parkway to Lonsdale Road; thence westerly along Lonsdale Road to Spadina Road; thence southerly along Spadina Road to its intersection

with the easterly prolongation of the boundary between the City of Toronto and the Borough of York; thence westerly along the said prolongation to the boundary between the City of Toronto and the Borough of York.

THE ELECTORAL DISTRICT OF YORK MILLS—consists of that portion of the Borough of North York bounded on the north by the northern limit of the Borough of North York, on the west by Yonge Street, on the east by Victoria Park Avenue and on the south by a line described as follows: Commencing at the intersection of Yonge Street and the limit of the City of Toronto; thence easterly and southerly following said City limit to Lawrence Avenue East; thence easterly along Lawrence Avenue East to Victoria Park Avenue.

THE ELECTORAL DISTRICT OF YORK SOUTH—consists of that portion of the Borough of York lying west and north of a line described as follows: Commencing at the intersection of Dufferin Street with the boundary between the Borough of North York and the Borough of York; thence southerly along Dufferin Street to the north limit of the City of Toronto; thence westerly and southerly following said City limit to St. Clair Avenue West; thence westerly along St. Clair Avenue West to Scarlett Road; thence southerly along Scarlett Road to Dundas Street West; thence westerly along Dundas Street West to the boundary between the Borough of Etobicoke and the Borough of York.

THE ELECTORAL DISTRICT OF YORK WEST—consists of that portion of the Borough of Etobicoke bounded on the north by a line described as follows: Commencing at the intersection of the westerly boundary of the Borough of Etobicoke and the centre line of the median of the Macdonald-Cartier Freeway; thence easterly along the said centre line and the centre line of the roadway linking the Macdonald-Cartier Freeway with the Richview Side Road and the Richview Side Road and its easterly prolongation to the easterly limit of the Borough of Etobicoke; on the south by a line described as follows: Commencing at the intersection of the westerly boundary of the Borough of Etobicoke and the Canadian Pacific Railway line; thence easterly along said railway line to Bloor Street West; thence easterly along Bloor Street West to the easterly limit of the Borough of Etobicoke; and on the east and west by the boundary of the Borough of Etobicoke.

THE ELECTORAL DISTRICT OF YORKVIEW—consists of that portion of the Borough of North York lying west of Keele Street.

1966, c. 137, Sched., *amended*.

CHAPTER 414

The Residential Property Tax Reduction Act

1.—(1) In this Act, Interpretation

(*a*) "Department" means the Department of Municipal Affairs;

(*b*) "land" means land as defined in *The Assessment Act*; R.S.O. 1970, c. 32

(*c*) "local municipality" means a city, town, village or township, a board of a school section or high school district in territory without municipal organization, a divisional board in relation to district municipalities in territory without municipal organization, and a separate school board that levies and collects taxes for the purposes of the board;

(*d*) "Minister" means the Minister of Municipal Affairs;

(*e*) "municipal taxes" means all taxes for municipal and school purposes imposed by a mill rate on rateable property;

(*f*) "number of residential properties" means the number of properties in respect of which reimbursement is made under subsection 1 of section 5, exclusive of the number of properties in respect of which reimbursement is made for part of the year only;

(*g*) "residential and farm assessment" means the assessment for real property, except the assessment for real property mentioned in clauses *a* and *c* of subsection 2 of section 302 of *The Municipal Act*, according to the last revised assessment roll; R.S.O. 1970, c. 284

(*h*) "residential property" means land separately assessed under paragraph 2 of subsection 2 of section 17 of *The Assessment Act* upon which there is a building used or intended to be used as a residence;

(*i*) "residential tax levy" means the municipal taxes levied on residential and farm assessment less reductions in such taxes made under this Act. 1970, c. 11, s. 1 (1).

(2) Where any person who has an interest as owner or tenant in any land believes that any part or parts of such land should have been separately assessed in the year preceding the year for which a tax reduction is sought, he may apply not later than the 31st day Where part of land should have been separately assessed

of January in the year next following the year for which the tax reduction is sought to the treasurer of the local municipality, and, if the treasurer is satisfied that this is the case, he may so certify, and thereupon such part or parts of such land shall be deemed to have been separately assessed for the purposes of this Act. 1970, c. 11, s. 1 (2).

Reduction of municipal taxes

2.—(1) Notwithstanding any general or special Act and subject to section 3, every local municipality shall reduce the municipal taxes required to be paid on each residential property in each year by,

(*a*) the amount of $30, plus an amount equal to 10 per cent of the residential tax levy in the local municipality in the preceding year divided by the number of residential properties in the local municipality in the preceding year; or

(*b*) an amount equal to 50 per cent of the total of municipal taxes on such residential property,

R.S.O. 1970, c. 32

whichever is the lesser, provided that where taxes are levied under section 43 of *The Assessment Act*, the reduction to be made under this section shall be the proportion of the reduction that would otherwise be made under this section that the number of months remaining in the year, after such levy, bears to the number 12.

Re tenants of Crown property, etc.

(2) Where a payment in lieu of taxes is made to a local municipality by the Crown in right of Ontario or any agency thereof or The Hydro-Electric Power Commission of Ontario in any year in respect of residential property, the Crown, agency or Commission shall reduce the payment in lieu of taxes by the amount that a tenant thereof would otherwise be entitled to under this Act if the residential property were liable to taxation and shall pay or allow as a reduction in rent such amount to the tenant. 1970, c. 11, s. 2.

Limitation

3. Except for residential properties in respect of which reductions were made for part of the preceding year only and except for residential properties in respect of which reductions were made under clause *b* of subsection 1 of section 2 in the preceding year, the reduction provided for under section 2 in respect of each residential property shall not be less than the amount of the previous year's reduction in respect of each such property minus $5 or more than the amount of the previous year's reduction in respect of each such property plus $15. 1970, c. 11, s. 3.

Interpretation

4.—(1) In this section, "agent" means the person for the time being receiving the rent of the residential property as the agent or trustee of the landlord.

(2) Where in any year a reduction of municipal taxes is made to a landlord in respect of any residential property, the landlord or his agent shall pay or allow as a reduction in rent to the tenant thereof the amount of such tax reduction in such manner and at such time or times as are prescribed by the regulations made under this Act. Reduction to tenant

(3) The right of a tenant to receive the reduction of municipal taxes mentioned in subsection 2 is not assignable and may not be waived before or after this Act comes into force. 1968, c. 118, s. 4. Reduction may not be assigned or waived

5.—(1) Every local municipality may apply to the Department requesting that it be reimbursed for the amount of reductions of municipal taxes made by such municipality under this Act, and the Treasurer of Ontario shall pay to the municipality the total amount of such reductions. 1968, c. 118, s. 5 (1). Payment by Ontario of amount of reduction allowed

(2) Where a local municipality has, under section 76 of *The Assessment Act*, made a cancellation, reduction or refund of taxes in respect of any residential property, there shall be an adjustment as between the Province of Ontario and the municipality of the amounts paid or payable under subsection 1. 1968, c. 118, s. 5 (2); 1970, c. 11, s. 4 (1). Adjustments re cancellations, reductions, refunds R.S.O. 1970, c. 32

(3) Every local municipality may apply to the Department requesting that it be reimbursed for the amount by which payments to it in lieu of taxes have been reduced by the Crown in right of Canada or Ontario and any agency thereof and The Hydro-Electric Power Commission of Ontario for the purpose of paying or allowing as a reduction in rent to tenants of the Crown, agency or Commission amounts that such tenants would otherwise be entitled to under this Act if the residential properties occupied by them were liable to taxation, and the Treasurer of Ontario shall pay to the municipality the total amount of such reductions, but where a payment in lieu of taxes on a residential property is less than the taxes that would have been levied had the property been liable to taxation, the amount of the residential property tax reduction shall be in the same ratio that the mill rate used to calculate the payment in lieu of taxes in the preceding year bears to the total mill rate that would have been levied in that same year had the property been liable to taxation. 1970, c. 11, s. 4 (2). Payment of amount of reduction allowed tenants of Crown

6. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) prescribing forms for use under this Act and the manner in which applications for reimbursement to municipalities may be made;

(*b*) varying the amounts provided in section 2 or 3;

(*c*) prescribing the amount of the tax reduction in respect of residential properties in any local municipality, where in the opinion of the Minister application of the provisions of sections 2 and 3 would not be appropriate due to an alteration in municipal boundaries;

(*d*) prescribing the manner in which and the time or times at which amounts of reduction of municipal taxes shall be paid or allowed as a reduction in rent to tenants under section 4;

(*e*) generally for the administration of this Act. 1968, c. 118, s. 6; 1970, c. 11, s. 5.

Offence

7. Every landlord and every agent as defined in section 4 who contravenes any of the provisions of section 4 or of the regulations made under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $200, and in addition, the provincial judge shall order the landlord or agent to pay or allow as a reduction in rent the amount of any credit on municipal taxes that in the opinion of the provincial judge has not been paid or allowed as a reduction in rent in accordance with section 4. 1968, c. 118, s. 7, *amended*.

Agreement under R.S.O. 1970, c. 213

8. Where there is an agreement under section 17 of *The Housing Development Act* between a local municipality and any person the effect of which is that the local municipality bears the whole or part of the municipal taxes of such person, such agreement shall be deemed to be amended by increasing the amount of the municipal taxes borne by the local municipality by the amount of such reduction of taxes. 1968, c. 118, s. 8 (2); 1968-69, c. 112, s. 4.

Supplementary tax assistance to certain pensioners

9.—(1) Commencing in the year 1970 and in respect of each year thereafter, the Treasurer of Ontario shall pay the sum of $50 to each person whose principal place of residence is in Ontario and who is entitled, on any date prescribed by the Minister, to a payment by the Government of Canada of a monthly guaranteed income supplement under Part II of the *Old Age Security Act* (Canada).

R.S.C. 1952, c. 200

Additional payment

(2) Where a person is eligible for a payment under subsection 1 and he or his spouse is entitled to a reduction in municipal taxes under section 2 in respect of the property in which he or she resides, and where such property is occupied by no other person except a spouse who is not eligible for a payment under subsection 1, such person, subject to subsection 3, is entitled to be paid by the Treasurer of Ontario for each year, upon submission of an application, in a form prescribed by the Minister, not later than the end of the year following the year in respect of which the application was made, an additional sum equal to,

(*a*) where the person or his spouse is assessed for such property, the amount of municipal taxes payable by such person or spouse after the reduction made under section 2 in that year for such property further reduced by the sum of $50; or

(*b*) where the person or his spouse rents such property, one-fifth of the amount of the yearly rent payable for such property by such person or spouse on any date prescribed by the Minister, reduced by the sum of $50.

(3) No payment under subsection 2 shall exceed $50. 1970, c. 119, s. 1, *part*. Maximum additional payment $50

10. The Lieutenant Governor in Council may, upon the recommendation of the Minister, make regulations extending the eligibility for payments under section 9 to any other person entitled to a payment by the Government of Canada of a monthly guaranteed income supplement under Part II of the *Old Age Security Act* (Canada). 1970, c. 119, s. 1, *part*. Regulations R.S.C. 1952, c. 200

11. The Minister may make regulations, Idem

(*a*) prescribing a date or dates for the purposes of subsections 1 and 2 of section 9;

(*b*) prescribing forms of application for the purposes of section 9;

(*c*) generally for the administration of section 9. 1970, c. 119, s. 1, *part*.

12. Moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1968, c. 118, s. 9. Moneys

CHAPTER 415

The Retail Sales Tax Act

1. In this Act, Interpretation

1. "admission" includes entry to a place of amusement where any charge is made or fee is collected before or after entry; 1968-69, c. 113, s. 1 (1).

2. "consumer" or "user" means a person who,
   (*a*) utilizes or intends to utilize in Ontario tangible personal property or a taxable service for his own consumption or for the consumption of any other person at his expense, or
   (*b*) utilizes or intends to utilize in Ontario tangible personal property or a taxable service on behalf of or as the agent for a principal who desired or desires to so utilize such property or taxable service for consumption by the principal or by any person at the expense of the principal; 1960-61, c. 91, s. 1, par. 3; 1970, c. 6, s. 1 (1, 2).

3. "consumption" includes the use, and the incorporation into any structure, building or fixture, of tangible personal property including that manufactured by the consumer or further processed or otherwise improved by him; 1960-61, c. 91, s. 1, par. 4.

4. "fair value" includes,
   (*a*) the price for which the tangible personal property or the taxable service was purchased, including the value in terms of Canadian money of services rendered and things exchanged and other considerations accepted by the vendor or person from whom the tangible personal property passed or taxable services were rendered as the price or on account of the price of the tangible personal property purchased or taxable service received,
   (*b*) the cost of or charges for customs, excise and transportation, whether or not such are shown separately in the books of the vendor or on an invoice,
   (*c*) the cost of installation where the contract under which the property is acquired provides for the acquisition of the property and its installation for one consideration, and

(*d*) the cost, including materials, labour and manufacturing overhead, of tangible personal property produced by the vendor or person for his own consumption or use; 1960-61, c. 91, s. 1, par. 5; 1964, c. 104, s. 1 (1); 1968-69, c. 113, s. 1 (3).

5. "Minister" means the Minister of Revenue; 1968-69, c. 113, s. 1 (4).

6. "person", in addition to its meaning in *The Interpretation Act*, includes Her Majesty in right of Ontario, a municipal corporation, including a metropolitan or regional municipal corporation, or a local board thereof, as defined in *The Department of Municipal Affairs Act*, and any board, commission or authority established under any Act of the Legislature; 1968-69, c. 113, s. 1 (5), *part*.

R.S.O. 1970, cc. 225, 118

7. "place of amusement" means a premises or place, whether enclosed or not, where a cinematograph or moving picture machine or similar apparatus is operated, or where a theatrical performance, carnival, circus, side show, menagerie, concert, rodeo, exhibition, horse race, athletic contest or other performance is staged or held or where facilities for dancing are provided to the public with the service of liquor, beer or wine and to which admission is granted upon payment of a price of admission through the sale of tickets or otherwise; 1968-69, c. 113, s. 1 (5), *part*; 1970, c. 6, s. 1 (3).

8. "price of admission" includes every charge made to or fee collected from a purchaser by a vendor before or after admission to a place of amusement; 1968-69, c. 113, s. 1 (5), *part*.

9. "purchaser" means a consumer or person who acquires tangible personal property anywhere, or who acquires or receives a taxable service at a sale in Ontario, for his own consumption or use, or for the consumption or use in Ontario of other persons at his expense, or on behalf of or as agent for a principal who desires to acquire such property or service for consumption or use in Ontario by such principal or other persons at his expense, and includes a person who purchases admission for himself to a place of amusement, and a person for whom admission to a place of amusement is purchased by another person; 1968-69, c. 113, s. 1 (6), *amended*.

10. "registered consumer" means a person who brings or imports into Ontario tangible personal property for his own use or consumption that has a fair value exceeding

$100 in each of two months or more during a calendar year and who holds a valid consumer's permit; 1964, c. 104, s. 1 (2).

11. "regulations" means the regulations made under this Act;

12. "retail sale" means a sale to a purchaser for the purpose of consumption or use and not for resale; 1960-61, c. 91, s. 1, pars. 9, 10.

13. "sale" means,

(*a*) any transfer of title or possession, exchange, barter, lease or rental, conditional or otherwise, including a sale on credit or where the price is payable by instalments, or any other contract whereby at a price or other consideration a person delivers to another person tangible personal property or renders to another person a taxable service,

(*b*) the production, fabrication, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, processing, printing or imprinting,

(*c*) the furnishing and distribution of tangible personal property for a consideration by social clubs or fraternal organizations to their members or others,

(*d*) the furnishing, preparation or service for a consideration of food, meals or drinks,

(*e*) a transaction whereby the possession of tangible personal property is transferred but the vendor retains the title as security for payment of the price,

(*f*) a transfer for a consideration of the title to or possession of tangible personal property that has been produced, fabricated, printed or imprinted to the order of the purchaser,

(*g*) the production, fabrication, processing, printing or imprinting of tangible personal property or the production of a taxable service by a person for his own consumption or use when that person furnishes either directly or indirectly the materials and labour used in such production, fabrication, processing, printing or imprinting; 1960-61, c. 91, s. 1, par. 11; 1962-63, c. 127, s. 1 (2); 1968-69, c. 113, s. 1 (7); 1970, c. 6, s. 1 (4).

14. "storage" includes any keeping or retention in Ontario for any purpose except retail sale or subsequent use outside Ontario of tangible personal property purchased

from a vendor, but does not include the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into Ontario for the purpose of transporting it subsequently outside Ontario or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property to be transported outside Ontario and thereafter used solely outside Ontario; 1960-61, c. 91, s. 1, par. 12.

15. "tangible personal property" means property that can be seen, weighed, measured, felt or touched, or that is in any way perceptible to the senses, and includes natural gas and manufactured gas; 1968-69, c. 113, s. 1 (8), *amended*.

16. "tax" includes all penalties and interest that are or may be added to a tax under this Act; 1960-61, c. 91, s. 1, par. 14.

17. "taxable service" means,
   (*a*) telephone services, including long distance calls;
   (*b*) telegraph services; or
   (*c*) transient accommodation. 1968-69, c. 113, s. 1 (9), *amended*.

18. "transient accommodation" means the provision of lodging in hotels, motels, hostels, apartment houses, lodging houses, boarding houses, clubs and other similar accommodation, whether or not a membership is required for the lodging, but does not include lodging let for a continuous period of one month or more or lodging in a lodging house, rooming house, or boarding house, if such house has accommodation for fewer than four tenants; 1968-69, c. 113, s. 1 (10), *amended*.

19. "use" includes storage and the exercise of any right or power over tangible personal property incidental to the ownership of that property, but it does not include the sale of that property at a retail sale or the keeping, retaining or exercising of any right or power over tangible personal property shipped or brought into Ontario for the purpose of transporting it subsequently outside Ontario for use thereafter solely outside Ontario or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property to be transported outside Ontario and thereafter used solely outside Ontario; 1960-61, c. 91, s. 1, par. 17.

20. "vendor" means a person who, in the ordinary course of his business,
   (*a*) sells tangible personal property;

(*b*) sells or renders a taxable service; or

(*c*) operates a place of amusement. 1968-69, c. 113, s. 1 (11).

Tax on purchaser, of tangible personal property

2.—(1) Every purchaser of tangible personal property, except the classes thereof referred to in subsection 2, shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof, computed at the rate of 5 per cent of the fair value thereof.

of liquor, beer, wine, meals

(2) Every purchaser of the following classes of tangible personal property shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof:

1. liquor, beer or wine;
2. prepared meals sold at a price of over $2.50.

of taxable service

(3) Every purchaser of a taxable service shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 5 per cent of the fair value thereof.

of admission to place of amusement

(4) Every purchaser of admission to a place of amusement shall pay to Her Majesty in right of Ontario a tax on the price of admission as follows:

Price of Admission			Tax
More than 75 cents	and not more than	84 cents	6 cents
" 84 "	" "	90 "	7 "
" 90 "	" "	92 "	8 "

and where the price of admission is more than 92 cents, a tax at the rate of 10 per cent, calculated upon the price of admission. 1968-69, c. 113, s. 2 (1).

When tax payable

(5) A purchaser shall pay the tax imposed by this Act at the time of the sale. 1968-69, c. 113, s. 2 (2).

Determination of fair value

(6) Where the Minister deems it necessary or advisable, he may determine the fair value of any such property for the purposes of taxation under this Act, and thereupon the fair value of such property for such purpose shall be as so determined by him. 1960-61, c. 91, s. 2 (4); 1968-69, c. 113, s. 2 (3).

Refund of tax

(7) If a person sells any tangible personal property at a retail sale in Ontario to a person who alleges that he is not purchasing it for consumption or use in Ontario, he shall nevertheless require such person to pay the tax, but such payment shall be refunded by the Treasurer of Ontario on receipt of satisfactory evidence that the tax was wrongfully paid. 1960-61, c. 91, s. 2 (6); 1965, c. 117, s. 1 (1); 1968-69, c. 113, s. 2 (5).

Idem

(8) Where a person has paid an amount under this Act as tax that is not payable as tax under this Act, the Treasurer of Ontario may refund such amount upon receipt of satisfactory evidence that the amount was wrongfully paid. 1968-69, c. 113, s. 2 (6).

Tangible personal property brought into or received in Ontario

(9) Every person who brings into Ontario or who receives delivery in Ontario of tangible personal property acquired by him for value for his own consumption or use, or for the consumption or use of other persons at his expense, or on behalf of, or as agent for, a principal who desires to acquire such property for the consumption or use by such principal or other persons at his expense, shall immediately report the matter in writing to the Minister and shall supply him with the invoice and all other pertinent information required by him in respect of the consumption or use of such property and at the same time shall pay to Her Majesty in right of Ontario the same tax in respect of the consumption and use of such property as would have been payable if the property had been purchased at a retail sale in Ontario. 1960-61, c. 91, s. 2 (7); 1964, c. 104, s. 2 (3); 1966, c. 138, s. 2 (3); 1968-69, c. 113, s. 2 (7).

Calculation of tax

(10) The tax imposed by this Act shall be calculated separately on every purchase and shall be computed to the nearest cent, and every fraction of less than one-half cent shall not be counted and every fraction of one-half cent or more shall be counted as one cent, but, where on the same occasion or as part of one transaction several items of tangible personal property are purchased, the total of the purchase shall be deemed to be one purchase for the purposes of this Act. 1960-61, c. 91, s. 2 (8).

Tax on merchandise tendered in trade

(11) Where tangible personal property subject to tax under this Act is accepted at the time of sale by a person or a vendor on account of the price of other tangible personal property sold, the purchaser shall pay a tax at the rate provided in subsection 1 calculated on the difference between the fair value of the property sold and the credit allowed for the tangible personal property accept accepted on account of the purchase price in trade. 1967, c. 88, s. 1.

Where exempt property put to taxable use

(12) Where tangible personal property has been purchased exempt from the tax imposed by this Act, and the tangible personal property is subsequently put to a taxable use, the purchaser shall pay the tax imposed by this Act on the fair value of the tangible personal property at the time of change of use. 1968-69, c. 113, s. 2 (8).

Vendor permits

3.—(1) No vendor shall sell any taxable tangible personal property or taxable services or operate a place of amusement unless he has been granted upon his application a permit for each place in Ontario where he transacts business and such permit is in force at the time of the sale. 1968-69, c. 113, s. 3 (1); 1970, c. 6, s. 2.

(2) Each such permit shall be issued by the Minister and shall be kept and conspicuously displayed at the place of business of the vendor for which the permit is issued and it is not transferable. 1960-61, c. 91, s. 3 (1, 2); 1968-69, c. 113, s. 3 (2). Permit

(3) The Minister may, Cancellation or suspension of permit

(*a*) refuse to issue a permit to any vendor; or

(*b*) suspend or cancel the permit of any vendor if such vendor or any of his employees contravenes any of the provisions of this Act,

but, before a refusal, suspension or cancellation is made, the vendor shall be afforded an opportunity to appear before the Minister to show cause why the issuance of a permit should not be refused or why the permit should not be suspended or cancelled, as the case may be. 1960-61, c. 91, s. 3 (3); 1968-69, c. 113, s. 3 (3).

(4) Every application for a permit shall be made in the form prescribed by the Minister and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place or places of business, and such other information as is required, and the application shall be signed, Information

(*a*) by the vendor, if a natural person;

(*b*) in the case of an association or partnership, by a member or partner; or

(*c*) in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application to which shall be attached the written evidence of his authority. 1960-61, c. 91, s. 3 (4); 1968-69, c. 113, s. 3 (4), *amended*.

(5) A permit issued under subsection 2 is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. Display of permit

(6) A permit remains in force so long as the place of business for which it is issued remains the place of business of the vendor or until suspended or cancelled, as the case may be. Term of permit

(7) Every vendor who fails to comply with any provision of this section is guilty of an offence against this Act. 1960-61, c. 91, s. 3 (5-7). Offence

4.—(1) No person shall dispose of his stock through a sale in bulk as defined in *The Bulk Sales Act* without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable by such person have been paid. Sales in bulk, R.S.O. 1970, c. 52

(2) Every person purchasing stock through a sale in bulk as defined in *The Bulk Sales Act* shall obtain from the person selling Idem

such stock the duplicate copy of the certificate furnished under subsection 1, and, if he fails to do so, he is responsible for payment to the Treasurer of Ontario of all taxes collectable or payable by the person thus disposing of his stock through a sale in bulk. 1968-69, c. 113, s. 4.

Exemptions

5.—(1) The purchaser of the following classes of tangible personal property and taxable services is exempt from the tax imposed by this Act: 1962-63, c. 127, s. 2 (1); 1970, c. 6, s. 3 (1), *amended*.

1. food products for human consumption except candies and other confections and soft drinks;
2. prepared meals sold at a price of $2.50 or less; 1968-69, c. 113, s. 5 (1).

R.S.O. 1970, c. 190

3. gasoline taxed under *The Gasoline Tax Act*;
4. gasoline used by farmers or commercial fishermen on which refunds of tax are entitled to be granted or have been granted under *The Gasoline Tax Act*; 1960-61, c. 91, s. 5, pars. 3, 4.

R.S.O. 1970, c. 282

5. fuel taxed under *The Motor Vehicle Fuel Tax Act*; 1960-61, c. 91, s. 5, par. 5.
6. fuel oil not taxed under *The Motor Vehicle Fuel Tax Act*; 1960-61, c. 91, s. 5, par. 6.
7. coal;
8. coke; 1960-61, c. 91, s. 5, pars. 7, 8.
9. wood as defined by the Minister; 1960-61, c. 91, s. 5, par. 9; 1966, c. 138, s. 3 (3); 1968-69, c. 113, s. 5 (2).
10. natural gas and manufactured gas as defined by the Minister; 1960-61, c. 91, s. 5, par. 10; 1966, c. 138, s. 3 (4); 1968-69, c. 113, s. 5 (3).
11. electricity for all purposes; 1960-61, c. 91, s. 5, par. 11.
12. farm implements, farm machinery, farm equipment and repair parts, as defined by the Minister, that in his opinion are to be used by a person engaged in the business of farming; 1967, c. 88, s. 2 (1); 1968-69, c. 113, s. 5 (4).
13. oil-bearing seeds and seeds that will produce forage, cereal, fruit, root, vegetable and tobacco crops; 1960-61, c. 91, s. 5, par. 14.
14. fertilizers, insecticides, fungicides, herbicides, rodenticides and combinations thereof; 1960-61, c. 91, s. 5, par. 15; 1961-62, c. 126, s. 3 (1).

15. fodder grain, mill and other agricultural feeds, as defined by the Minister; 1960-61, c. 91, s. 5, par. 16; 1968-69, c. 113, s. 5 (5).

16. paper twine, binder twine, baler twine, baler wire and barbed wire; 1960-61, c. 91, s. 5, par. 17; 1962-63, c. 127, s. 2 (2).

17. farm, hog and poultry fence, as defined by the Minister; 1960-61, c. 91, s. 5, par. 18; 1968-69, c. 113, s. 5 (6).

18. agricultural products, including live stock; 1960-61, c. 91, s. 5, par. 19.

19. materials and equipment required for irrigation purposes and repairs to such equipment and drainage tile when such materials, equipment or tile is purchased by a person who with respect to the purchase of such property provides the vendor with a signed statement certifying that he is engaged in the business of farming and that such property will be used exclusively in the conduct of such business; 1966, c. 138, s. 3 (5).

20. fruit trees; 1960-61, 1960-61, c. 91, s. 5, par. 21.

21. shrubs and plants that produce fruit or other food for human consumption, or that produce tobacco;

22. any tree that is sold by the Department of Lands and Forests; 1961-62, c. 126, s. 3 (3).

23. aircraft as defined by the Minister and purchased for use in foreign or interprovincial trade by an airline, and repairs to such aircraft; 1966, c. 138, s. 3 (6), *part*; 1968-69, c. 113, s. 5 (7).

24. street flushers, street sweepers and fire-fighting vehicles as defined by the Minister and purchased by a municipality, university or public hospital at a price of more than $1,000 per vehicle; 1966, c. 138, s. 3 (6), *part*; 1968-69, c. 113, s. 5 (8).

25. natural water, including ice and steam;

26. clay, sand, gravel and unfinished stone; 1960-61, c. 91, s. 5, pars. 26, 27.

27. boats, fishing nets and other fishing apparatus utilized in catching fish for human consumption, purchased by a *bona fide* commercial fisherman for use solely in his trade, and repairs to such boats, fishing nets or other fishing apparatus; 1966, c. 138, s. 3 (7).

28. vessels of more than 500 tons gross;

29. drugs and medicines when sold on the prescription of a physician, dentist or veterinarian;

30. artificial limbs;

31. orthopaedic appliances;

32. equipment designed solely for the use of blind persons, cripples or chronic invalids;

33. hearing aids; 1960-61, c. 91, s. 5, pars. 29-34.

34. dentures and dental appliances;

35. optical appliances when sold on the prescription of a physician or an optometrist; 1961-62, c. 126, s. 3 (4), *part*.

36. equipment as defined by the Minister and purchased in good faith for use exclusively and not for resale by a hospital that is approved as a public hospital under *The Public Hospitals Act* or that is established under *The Community Psychiatric Hospitals Act* or by a sanatorium as defined under *The Sanatoria for Consumptives Act* or by The Ontario Cancer Treatment and Research Foundation, and repairs to such equipment; 1966, c. 138, s. 3 (8); 1968-69, c. 113, s. 5 (9).

R.S.O. 1970, cc. 378, 74, 422

37. dies, jigs, fixtures and moulds, patterns for dies, jigs, fixtures and moulds, tools attached to production machinery, explosives and refractory materials, all as defined by the Minister and consumed or expended by the purchaser thereof directly in the process of manufacture of tangible personal property for sale or use; 1970, c. 6, s. 3 (2).

38. materials, as defined by the Minister, that in his opinion are to be consumed or expended by the purchaser thereof directly in the process of manufacture or production of tangible personal property for sale or use; 1961-62, c. 126, s. 3 (4), *part*; 1967, c. 88, s. 2 (3); 1968-69, c. 113, s. 5 (11).

39. tangible personal property purchased for the purpose of being processed, fabricated or manufactured into, attached to, or incorporated into, tangible personal property for the purpose of sale or use; 1960-61, c. 91, s. 5, par. 40; 1967, c. 88, s. 2 (4).

40. tangible personal property to be shipped by the vendor for delivery outside Ontario, including ships' stores delivered to commercial vessels of more than 500 tons gross that normally operate in extra-territorial waters; 1960-61, c. 91, s. 5, par. 41.

41. railway rolling stock and repairs thereto; 1961-62, c. 91, s. 5, par. 43; 1961-62, c. 126, s. 3 (6), *part*.

42. children's clothing and children's footwear as the Lieutenant Governor in Council may determine by regulation; 1960-61, c. 91, s. 5, par. 44; 1961-62, c. 126, s. 3 (6), *part*.

43. classroom supplies, as defined by the Minister, purchased for use or consumption and not for resale by schools, school boards or universities; 1961-62, c. 126, s. 3 (7), *part*; 1968-69, c. 113, s. 5 (12), *amended*.

44. students' supplies, as defined by the Minister; 1961-62, c. 126, s. 3 (7), *part*; 1968-69, c. 113, s. 5 (13).

45. books that are printed and bound and that are published solely for educational, technical, cultural or literary purposes and that contain no advertising, but not directories, price lists, time tables, rate books, catalogues, reports, fashion books, albums or any books of the same general classes; 1967, c. 88, s. 2 (5).

46. newspapers, however purchased; 1960-61, c. 91, s. 5, par. 47.

47. magazines and periodicals, as defined by the Minister; 1961-62, c. 126, s. 3 (8); 1968-69, c. 113, s. 5 (14).

48. draft beer sold by the keg to the owners of licensed premises for resale by the glass on such premises; 1960-61, c. 91, s. 5, par. 49.

49. draft beer sold on licensed premises; 1960-61, c. 91, s. 5, par. 50; 1968-69, c. 113, s. 5 (15).

50. works of art, as defined by the Minister, purchased by a museum or art gallery more than 50 per cent of the revenue of which is provided by public donations and grants by public bodies; 1961-62, c. 126, s. 3 (4), *part*; 1968-69, c. 113, s. 5 (17).

51. uncancelled Canada postage stamps and uncancelled federal and provincial revenue stamps valid for transportation of mail or for revenue purposes where the consideration for the sale thereof does not exceed the face value thereof; 1961-62, c. 126, s. 3 (9), *part*.

52. coin, paper money or bank notes unless purchased at a price greater than the equivalent face value thereof in Canadian funds; 1970, c. 6, s. 3 (3).

53. equipment, as defined by the Minister and that is purchased by a religious institution for use exclusively and not for resale in that part of its premises where religious worship or sabbath school is regularly conducted, and repairs to such equipment; 1961-62, c. 126, s. 3 (9), *part*; 1966, c. 138, s. 3 (10); 1968-69, c. 133, s. 5 (18).

54. equipment, as defined by the Minister and that is purchased by a person licensed by the Minister of Lands and Forests to trap fur-bearing animals, and repairs to such equipment; 1961-62, c. 126, s. 3 (9), *part*; 1966, c. 138, s. 3 (11); 1968-69, c. 113, s. 5 (19).

55. machinery and apparatus and parts thereof, as defined by the Minister, purchased by advertisers or their agents that, in the opinion of the Minister, are used to produce advertisements exclusively in newspapers or magazines; 1961-62, c. 126; s. 3 (9), *part*; 1968-69, c. 113, s. 5 (20).

56. religious and educational publications, as defined by the Minister; 1961-62, c. 126, s. 3 (9), *part*; 1968-69, c. 113, s. 5 (21).

57. tangible personal property purchased at a price of less than 21 cents; 1962-63, c. 127, s. 2 (4).

58. buses, excluding school buses, when purchased in good faith to provide public transportation within a municipality as defined by the Minister, and repairs to such equipment; 1964, c. 104, s. 4, *part*; 1966, c. 138, s. 3 (12); 1968-69, c. 113, s. 5 (22).

59. tangible personal property that is purchased in good faith pursuant to a contract entered into on or after the 1st day of June, 1964, for use exclusively and not for resale by the governing board of a public hospital, nurses' residence, school or university and that will be incorporated into and form part of a public hospital, nurses' residence, school or university building; 1964, c. 104, s. 4, *part*; 1966, c. 138, s. 3 (13).

60. tangible personal property that is purchased in good faith pursuant to a contract entered into on or after the 1st day of June, 1964, for use exclusively and not for resale by a municipality or a local board thereof and that enters directly into and becomes part of the construction of capital works; 1964, c. 104, s. 4, *part*.

R.S.O. 1970, c. 463

61. tobacco products taxed under *The Tobacco Tax Act*; 1965, c. 117, s. 2 (3).

62. settler's effects as defined by the Minister; 1966, c. 138, s. 3 (14), *part*; 1968-69, c. 113, s. 5 (23).

63. cut natural evergreen Christmas trees when used for decorative purposes; 1966, c. 138, s. 3 (14), *part*.

64. tangible personal property situated on a reserve, as defined by the *Indian Act* (Canada), when purchased by an Indian, and tangible personal property purchased by an Indian off the reserve when delivered to the reserve for consumption or use by an Indian; 1967, c. 88, s. 2 (6). R.S.C. 1952, c. 149

65. taxable services used on a reserve, as defined by the *Indian Act* (Canada), when purchased by an Indian. 1970, c. 6, s. 3 (4).

(2) The purchaser of tangible personal property purchased to provide a taxable service is not exempt from the tax imposed by this Act. Exceptions

(3) No taxable service is exempt from the tax imposed by this Act by reason of the fact that the tangible personal property used in providing the taxable service is tangible personal property in respect of which tax imposed by this Act has been paid. 1968-69, c. 113, s. 5 (24). Idem

6.—(1) Where a person acquires title to tangible personal property by bequest or from a member of his family and no consideration is payable by the purchaser in respect of the acquisition, the tax imposed by subsection 1 of section 2 does not apply. 1964, c. 104, s. 5. Conditional exemptions

(2) In subsection 1, "member of his family" means the father, mother, husband, wife, grandfather, grandmother, son, daughter, grandson, granddaughter, son-in-law, daughter-in-law, father-in-law or mother-in-law of the purchaser. 1961-62, c. 126, s. 4, *part*; 1962-63, c. 127, s. 3. Interpretation

7.—(1) If, owing to special circumstances, it is deemed inequitable that the whole amount of tax imposed by this Act be paid, the Minister may, with the approval of the Lieutenant Governor in Council, exempt a purchaser from payment of the whole or any part of such tax. 1961-62, c. 126, s. 4, *part*; 1968-69, c. 113, s. 6 (1). Special exemptions

(2) Where special circumstances exist, whether of a religious, charitable or educational nature or otherwise, the Lieutenant Governor in Council may, upon application of the vendor made to the Minister at least ten days before the tax would otherwise be payable, exempt the purchaser from the payment and the vendor from collection of the tax imposed by subsection 4 of section 2. Idem

(3) Where it is shown to the satisfaction of the Minister that the tax calculated on the price of admission to a place of amusement at or in which an entertainment has been held for the Idem

purpose of raising funds for religious, charitable or educational purposes was collected and paid to Her Majesty in right of Ontario in accordance with subsection 4 of section 2, and where the vendor files with the Minister a statement, verified by his affidavit, giving in detail all receipts and expenses in connection with the entertainment and the receipt of the organization to which the proceeds were donated acknowledging receipt of the proceeds is attached thereto, and where the Minister is satisfied that the organization is one whose operations are carried on exclusively for religious, charitable or educational purposes or for any combination of such purposes, there may be paid to the organization an amount equal to that proportion of the tax so collected and paid which the proceeds acknowledged as received by the organization bear to the gross amount received by the vendor as the price of admission to such place of amusement.

Canadian performances

(4) Where application of the vendor is made to the Minister at least ten days before the tax imposed by subsection 4 of section 2 would otherwise be payable and the Minister is satisfied that the performers in a theatrical or musical performance in a place of amusement are residents of Canada performing under the management of a person resident in Canada and that the performance will not be presented with the showing of a motion picture or with a carnival, circus, side show, menagerie, rodeo, exhibition, horse race, athletic contest or other performance, the Minister may, in his absolute discretion, exempt the purchaser from the payment and the vendor from the collection of the tax imposed by subsection 4 of section 2. 1968-69, c. 113, s. 6 (2), *amended*.

Vendor to be collector

8.—(1) Every vendor is an agent of the Minister and as such shall levy and collect the taxes imposed by this Act upon the purchaser or consumer. 1960-61, c. 91, s. 6 (1); 1968-69, c. 113, s. 7.

Idem

(2) No person acting under subsection 1 shall thus be made ineligible as a member of the Assembly. 1960-61, c. 91, s. 6 (2).

Taxes collected at the time of sale

9. The taxes imposed by this Act, whether the purchase price be stipulated to be payable in cash or on terms or by instalments or otherwise, shall be collected at the time of the sale on the whole amount of the purchase price and be remitted to the Treasurer of Ontario at the times and in the manner prescribed by the regulations. 1960-61, c. 91, s. 7; 1968-69, c. 113, s. 8.

Accounting by vendors

10. All taxes collected by a vendor under this Act shall be remitted to the Treasurer of Ontario at the time or times and in such manner as are prescribed by the regulations. 1960-61, c. 91, s. 8; 1968-69, c. 113, s. 9.

Compensation to vendors

11.—(1) The Minister may enter into such arrangement with each vendor as he considers expedient for the payment of such

remuneration for his services in collecting and remitting the tax as the Minister considers proper, and the vendor may deduct such remuneration from the amount otherwise to be remitted to the Treasurer in accordance with section 10. 1960-61, c. 91, s. 9 (1); 1961-62, c. 126, s. 5; 1968-69, c. 113, s. 10.

Idem

(2) No person accepting remuneration under subsection 1 shall thus be made ineligible as a member of the Assembly. 1960-61, c. 91, s. 9 (2).

Returns

12.—(1) Every vendor shall make returns to the Minister and shall keep such records in the form and substance as are prescribed by the regulations, and any failure so to do constitutes an offence against this Act. 1960-61, c. 91, s. 10; 1968-69, c. 113, s. 11 (1).

Idem

(2) Every registered consumer shall make returns to the Minister and shall keep such records in the form and substance as are prescribed by the regulations, and any failure so to do constitutes an offence against this Act. 1964, c. 104, s. 6; 1968-69, c. 113, s. 11 (2).

Records of manufacturers, etc.

13. Every manufacturer, wholesaler, importer, jobber, agent and vendor shall keep records of all purchases and sales made by him of tangible personal property whether for consumption or use or for resale, and any failure so to do constitutes an offence against this Act. 1960-61, c. 91, s. 11.

Information to be secret

14.—(1) Subject to subsection 2, no person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act. 1964, c. 104, s. 7, *part*.

Communication of information to other jurisdictions

(2) The Minister may,

(*a*) communicate or allow to be communicated information obtained under this Act; or

(*b*) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the Government of Canada or any province of Canada, if the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and if the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial law that provides for the imposition of a tax. 1964, c. 104, s. 7, *part*; 1968-69. c. 113, s. 12.

Assessment of tax collected

15.—(1) Where a vendor fails to make a return or a remittance as required under this Act or if his returns are not substantiated by his records, the Minister may make an assessment of the tax collected by such vendor for which he has not accounted and such assessed amount shall thereupon be deemed to be the tax collected by the vendor. 1968-69. c. 113. s. 13 (1).

Assessment on inspection

(2) Where it appears from an inspection, audit or examination of the books of account, records or documents of any vendor or purchaser that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate the tax collected by the vendor or payable by the purchaser in such manner and form and by such procedure as the Minister considers adequate and expedient, and the Minister shall assess the amount of the tax collected by the vendor or payable by the purchaser, as the case may be. 1960-61, c. 91, s. 13 (2); 1968-69, c. 113, s. 13 (2), *amended*.

Assessment from time to time

(3) The Minister may, at any time he considers reasonable, assess or reassess any tax collectable by a vendor or any tax payable by a purchaser, under this Act. 1960-61, c. 91, s. 13 (3); 1968-69, c. 113, s. 13 (3).

Notice of assessment under subs. 1

(4) Where the Minister has made an assessment under subsection 1, he may send by prepaid mail or by personal service a notice of assessment to the vendor, requiring that the amount of the assessment made under subsection 1 be remitted to the Treasurer of Ontario or otherwise accounted for. 1970, c. 6, s. 4 (1).

Notice of assessment under subs. 2 or 3

(5) The Minister shall send by prepaid mail a notice of the assessment made under subsection 2 or 3 to the vendor or purchaser, as the case may be, at his latest known address, and, where the vendor or purchaser has more than one address, one of which is in Ontario, such notice shall be sent to his address in Ontario. 1960-61, c. 91, s. 13 (6); 1968-69, c. 113, s. 13 (5); 1970, c. 6, s. 4 (3), *amended*.

Continuation of liability for tax

(6) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. 1960-61, c. 91, s. 13 (7).

Minister not bound by returns

(7) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act. 1960-61, c. 91, s. 13 (8); 1968-69, c. 113, s. 13 (6).

Assessment valid and binding

(8) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. 1960-61, c. 91, s. 13 (9).

16.—(1) Every vendor or purchaser shall, within thirty days from the day of mailing of the notice of assessment under subsection 4 or 5 of section 15, pay any part of the assessed tax then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding. 1960-61, c. 91, s. 14 (1). Payment

(2) Where in the opinion of the Minister a vendor or a purchaser is attempting to avoid payment of the tax imposed by this Act or where the Minister has assessed the tax payable under this Act pursuant to subsection 1, 2 or 3 of section 15, he may, notwithstanding subsection 4 or 5 of section 15, serve the notice of assessment upon the vendor or the purchaser, as the case may be, and, if the vendor or the purchaser is a partnership or a corporation, the notice of assessment may be served on a partner or the president, manager, secretary or other director, agent or representative thereof, and the Minister may direct that all taxes as set out therein shall be paid forthwith. 1960-61, c. 91, s. 14 (2); 1968-69, c. 113, s. 14. Idem

17. The purchaser is liable for the tax imposed by this Act until it is collected, and, where the purchaser refuses to pay the tax at the time it is collectable under section 9, the vendor shall within twenty days thereafter, notify the Minister thereof. 1961-62, c. 126, s. 6; 1964, c. 104, s. 8; 1968-69, c. 113, s. 15; 1970, c. 6, s. 5. Purchaser liable

18.—(1) Every vendor who collects any tax under this Act shall be deemed to hold it in trust for Her Majesty in right of Ontario and is responsible for the payment over of it in the manner and time provided under this Act and the regulations. Tax moneys are trust moneys

(2) Every tax collectable or penalty payable by a vendor under this Act is a first lien and charge upon his property in Ontario for the amount of such tax or penalty and has priority over all other claims of any person. 1964, c. 104, s. 9. Tax moneys, etc., are lien

19.—(1) Where a vendor or a purchaser objects to an assessment made under section 15, he may, within sixty days from the day of mailing of the notice of assessment, serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. 1960-61, c. 91, s. 17 (1); 1966, c. 138, s. 4; 1968-69, c. 113, s. 16 (1). Notice of objection

(2) A notice of objection under this section shall be served by being sent by registered mail addressed to the Minister. 1960-61, c. 91, s. 17 (2); 1968-69, c. 113, s. 16 (2). Service

(3) Upon receipt of the notice of objection, the Minister shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess, and he shall thereupon notify the vendor or the purchaser, as the case may be, of his Reconsideration

action by registered letter. 1960-61, c. 91, s. 17 (3); 1968-69, c. 113, s. 16 (3).

Appeal

20.—(1) Where a person has served notice of objection under section 19, he may appeal to the Supreme Court to have the assessment vacated or varied after the Minister has confirmed or reassessed, but no appeal under this section shall be instituted after the expiration of ninety days from the day notice has been mailed to such person under section 19 that the Minister has confirmed the assessment or reassessed it. 1960-61, c. 91, s. 18 (1); 1968-69, c. 113, s. 17 (1).

Appeals, how instituted

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business. 1960-61, c. 91, s. 18 (2); 1968-69, c. 113, s. 17 (2).

Service

(3) A notice of appeal shall be served on the Minister by being sent by registered mail addressed to the Minister. 1960-61, c. 91, s. 18 (3); 1968-69, c. 113, s. 17 (3).

Statement of allegations

(4) The person appealing shall set out in the notice of appeal a statement of the allegations of fact and the statutory provisions and reasons that he intends to submit in supporting his appeal. 1960-61, c. 91, s. 18 (4).

Security for costs

(5) An appeal under this section and all proceedings thereunder are, upon the expiration of sixty days from the day the appeal is instituted, void unless security for the costs of the appeal has been, within the same period, paid into court in such sum, not exceeding $400, as the Minister requires and, upon an appeal becoming void by virtue of this subsection, no other appeal or proceeding shall be instituted in respect of the same decision. 1960-61, c. 91, s. 18 (5); 1968-69, c. 113, s. 17 (4), *amended*.

Idem

(6) When security has been given under subsection 5, notice thereof shall be served on the Minister specifying the fact and the purpose of the payment. 1960-61, c. 91, s. 18 (6); 1968-69, c. 113, s. 17 (5).

Reply to notice of appeal

21.—(1) The Minister shall with all due despatch serve on the person appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as he intends to rely on. 1960-61, c. 91, s.19 (1); 1960-61, c. 113, s. 18.

Amendment of notice of appeal

(2) The court or a judge may in its or his discretion strike out a notice of appeal or any part thereof for failure to comply with subsection 4 of section 20 and may permit an amendment to be

made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

Amendment to reply

(3) The court or a judge may in its or his discretion,

(*a*) strike out any part of a reply for failure to comply with subsection 1 or permit the amendment of a reply; or

(*b*) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order.

Failure to comply

(4) Where a notice of appeal is struck out for failure to comply with subsection 4 of section 20 and a new notice of appeal is not filed as and when permitted by the court or a judge, the court or a judge may, in its or his discretion, dispose of the appeal by dismissing it.

Idem

(5) Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the court or a judge within the time ordered, the court may dispose of the appeal *ex parte* or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true. 1960-61, c. 91, s. 19 (2-5).

Matter deemed action

22.—(1) Upon the filing of the material referred to in section 20 with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the person appealing resides or has his place of business, the matter shall be deemed to be an action in the court and, unless the court otherwise orders, ready for hearing. 1960-61, c. 91, s. 20 (1).

Facts not set out may be pleaded

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court may direct. 1960-61, c. 91, s. 20 (2).

Disposal of appeal

(3) The court may dispose of the appeal by,

(*a*) dismissing it;

(*b*) allowing it; or

(*c*) allowing it; and

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the assessment, or

(iv) referring the assessment back to the Minister for reconsideration and reassessment. 1960-61, c. 91, s. 20 (3); 1968-69, c. 113, s. 19.

Court may order payment of tax, etc.

(4) The court may, in delivering judgment disposing of an appeal, order payment or refund of tax by the appellant or the Treasurer, as the case may be, and may make such order as to costs as is considered proper. 1960-61, c. 91, s. 20 (4).

Proceedings *in camera*

23. Proceedings pursuant to sections 20, 21, 22 and 24 shall be held *in camera* on request made to the court by the person appealing or by the Minister. 1960-61, c. 91, s. 21; 1968-69, c. 113, s. 20.

Supreme Court practice to govern

24. The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 20, and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. 1960-61, c. 91, s. 22.

Irregularities

25. An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act. 1960-61, c. 91, s. 23.

Investigations

26.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and,

(*a*) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax collectable or payable under this Act;

(*b*) examine the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax collectable or payable under this Act;

(*c*) require a vendor or purchaser liable to collect or pay or considered possibly liable to collect or pay tax under this Act or, if such vendor or purchaser is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof and any other person on the premises of such vendor or purchaser to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination, either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises or place with him; and

(*d*) if during the course of an audit or examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings. 1960-61, c. 91, s. 24 (1); 1968-69, c. 113, s. 21 (1).

Idem (2) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any vendor or purchaser or, if any such vendor or purchaser is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof,

(*a*) any information or additional information or a return as required under section 12 or a supplementary return; or

(*b*) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein. 1960-61, c. 91, s. 24 (2); 1968-69, c. 113, s. 21 (2).

Idem (3) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any amount to a vendor or purchaser, or from any partner, agent, or official of any such person, partnership, syndicate, trust or corporation, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein. 1960-61, c. 91, s. 24 (3); 1966, c. 138, s. 5; 1968-69, c. 113, s. 21 (3).

Idem (4) The Minister may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Department of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations and to seize and to take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. 1960-61, c. 91, s. 24 (4); 1968-69, c. 113, s. 21 (4).

Production of evidence to prove tax payable by another person

(5) The Minister may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer for the purpose of determining what tax, if any, is collectable or payable under this Act by any vendor or purchaser, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. 1960-61, c. 91, s. 24 (5); 1968-69, c. 113, s. 21 (5).

Inquiry

(6) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Department of Revenue, to make such inquiry as the Minister considers necessary with reference to anything relating to the administration or enforcement of this Act. 1960-61, c. 91, s. 24 (6); 1968-69, c. 113, s. 21 (6).

Copies

(7) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Department of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way. 1960-61, c. 91, s. 24 (7); 1968-69, c. 113, s. 21 (7).

Compliance

(8) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person doing any such thing.

Idem

(9) Notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do.

Administration of oaths

(10) Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor.

Powers of inquiry

R.S.O. 1970, c. 379

(11) For the purpose of an inquiry under subsection 6, the person authorized to make the inquiry has all the powers and authority that may be conferred upon a commissioner appointed under *The Public Inquiries Act*. 1960-61, c. 91, s. 24 (8-11).

27.—(1) Every vendor who fails to deliver a return or to remit the tax collectable or payable as and when required shall pay a penalty of, Penalty for default in filing return or remitting tax

(*a*) an amount equal to 5 per cent of the tax that was collectable and of the tax that was payable by him for the period covered by the return, if the amount of such tax was less than $10,000; or

(*b*) $500, if the amount of such tax was $10,000 or more. 1970, c. 6, s. 6.

(2) Every vendor who fails to complete the information required on the return to be delivered under section 12 is liable to a penalty of 1 per cent of the tax collectable by him for the period covered by the return, but such penalty shall not in any case be less than $20 or more than $100. Failure to complete return

(3) Every person who has, False statements

(*a*) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer, delivered or made as required by or under this Act or the regulations;

(*b*) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of the vendor or purchaser;

(*c*) made, or assented to or acquiesced in the making of, false or deceptive entries or omitted, or assented to or acquiesced in the omission, to enter a material particular in records or books of account of a vendor or purchaser;

(*d*) wilfully, in any manner, evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or

(*e*) conspired with any person to commit any offence described in clauses *a* to *d*,

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on summary conviction to a fine of not less than $25 and not more than $10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been declared to be collectable or payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both. 1960-61, c. 91, s. 25 (2, 3).

(4) Every registered consumer who fails to deliver a return when required shall pay a penalty of, Liability of registered consumers to pay penalties

(*a*) an amount equal to 5 per cent of the tax that was

payable by him for the period covered by the return, if the amount of such tax was less than $10,000; or

(*b*) $500, if the amount of such tax was $10,000 or more.

Idem

(5) Every registered consumer who fails to complete the information required on the return to be delivered under subsection 2 of section 12 is liable to a penalty of 1 per cent of the tax payable by him for the period covered by the return, but such penalty shall not in any case be less than $20 or more than $100. 1964, c. 104, s. 10.

Extended time for making returns

28. The Minister may enlarge the time for making any return before or after the time for making it. 1960-61, c. 91, s. 26; 1968-69, c. 113, s. 22.

Interest

29.—(1) Any amount payable or to be remitted to the Treasurer of Ontario under this Act bears interest, at such rate as is prescribed by the regulations, from the day on which such amount should have been paid or remitted to the Treasurer of Ontario to the day of payment or until thirty days following the day on which a notice of assessment is mailed under subsection 4 or 5 of section 15, whichever is the earlier date.

Idem

(2) The amount due as shown by a notice of assessment made under subsection 4 or 5 of section 15 shall, if it is not paid within thirty days from the day of mailing of the notice of assessment, bear interest, at such rate as is prescribed by the regulations, calculated from thirty days after the day of mailing of the notice of assessment until the day of payment. 1968-69, c. 113, s. 23.

Interest on over-payments

30.—(1) Where an amount in respect of an overpayment is refunded or applied on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing on the day the overpayment arose and ending with the day of refunding or application on other liability, unless the amount of interest so calculated is less than $1, in which event no interest shall be paid or applied under this subsection.

Idem

(2) Where by a decision of the Minister under section 19 or by a decision of a court it is finally determined that the tax payable under this Act by a person is less than the amount assessed by the assessment under section 15 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment of tax, the interest payable under subsection 1 on that overpayment shall be computed at such rate as is prescribed by the regulations. 1970, c. 6, s. 7.

Garnish-ment

31.—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to make a payment or remittance under this Act, he may, by registered letter or by a letter served

personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer of Ontario on account of the liability under this Act. 1960-61, c. 91, s. 28 (1); 1968-69, c. 113, s. 24 (1).

Idem

(2) The receipt of the Treasurer of Ontario for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. 1960-61, c. 91, s. 28 (2); 1968-69, c. 113, s. 24 (2).

Liability of debtor

(3) Every person who has discharged any liability to a person liable to make a payment or remittance under this Act without complying with the requirement under this section is liable to pay Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer of Ontario, whichever is the lesser. 1960-61, c. 91, s. 28 (3); 1968-69, c. 113, s. 24 (3).

Service of garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

Idem

(5) Where the persons who are or are about to become indebted or liable to make a payment to a person liable to make a payment or remittance under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. 1960-61, c. 91, s. 28 (4, 5).

Recovery of tax

32.—(1) Upon default of payment by a vendor or purchaser of any tax collectable or payable under this Act,

(*a*) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred and shall be tried without a jury;

(*b*) the Minister may issue a warrant directed to the sheriff of any county or district in which any property of a person liable to make a payment or remittance under this Act is located or situate for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs, expenses

and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. 1960-61, c. 91, s. 29 (1); 1968-69, c. 113, s. 25 (1, 2).

Compliance to be proved by affidavit

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Act as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Department of Revenue. 1960-61, c. 91, s. 29, (2); 1968-69, c. 113, s. 25 (3).

Remedies for recovery of tax

33. The use of any of the remedies provided by sections 31 and 32 does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. 1960-61, c. 91, s. 30.

Surety bond

34.—(1) The Minister may require any vendor to deposit with the Treasurer of Ontario a bond by way of cash or other security satisfactory to the Minister in an amount to be determined by the Minister but not greater than an amount equal to six times the amount of the estimated tax that would normally be collected by the vendor each month under this Act, but in no case shall the deposit be less than $100. 1960-61, c. 91, s. 31 (1); 1966, c. 138, s. 6; 1968-69, c. 113, s. 26 (1).

Disposal of surety bond

(2) Where a vendor who has deposited a bond with the Treasurer of Ontario under subsection 1 has failed to collect or remit tax in accordance with this Act, the Minister may, by giving written notice to the vendor by registered mail or personal service, apply the bond in whole or in part to the amount that should have been collected, remitted or paid by the vendor as the amount due to Her Majesty in right of Ontario as of the date of the notice. 1960-61, c. 91, s. 31 (2); 1968-69, c. 113, s. 26 (2).

Non-resident contractors

(3) Where a non-resident contractor enters into a contract with a person pursuant to which or in the carrying out of which tangible personal property will be consumed or used in Ontario, the non-resident contractor shall deposit with the Treasurer of Ontario a sum equivalent to 3 per cent of the total amount to be paid under the contract, or shall furnish the Treasurer of Ontario with a guarantee bond satisfactory to the Minister in a sum equivalent to 3 per cent of such total amount, to secure payment of the tax payable in respect of tangible personal property

consumed or used pursuant to or in the carrying out of the contract and shall obtain a certificate in duplicate from the Minister that the requirements of this subsection have been met. 1964, c. 104, s. 11, *part*; 1968-69, c. 113, s. 26 (3).

Idem

(4) Any person dealing with a non-resident contractor without first obtaining the duplicate copy of the certificate from the Minister as required in subsection 3 shall deduct 3 per cent of all amounts payable to the non-resident contractor and pay it over to the Treasurer of Ontario on behalf of or as agent for the non-resident contractor, or shall furnish the Treasurer of Ontario with a guarantee bond satisfactory to the Minister in a sum equivalent to 3 per cent of such total amount, to secure payment of the tax payable in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract. 1964, c. 104, s. 11, *part*; 1968-69, c. 113, s. 26 (4).

Idem

(5) Where a person dealing with a non-resident contractor fails to comply with subsection 4, he is personally liable for payment of the tax imposed by this Act in respect of tangible personal property consumed or used pursuant to or in the carrying out of the contract. 1964, c. 104, s. 11, *part*.

Tax not to be absorbed by vendors

35. No vendor shall advertise or hold out or state to the public or to any purchaser, directly or indirectly, that the tax or any part thereof imposed by this Act will be assumed or absorbed by him or that it will not be considered as an element in the price to the purchaser, or, if added, that it or any part thereof will be refunded. 1960-61, c. 91, s. 32.

Offences

36.—(1) Every vendor or registered consumer who has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than $25 for each day during which the default continues. 1960-61, c. 91, s. 33 (1); 1965, c. 117, s. 3.

Idem

(2) Every person who contravenes section 13 or 26 is guilty of an offence and on summary conviction is liable to a fine of $25 for each day during which the default continues. 1960-61, c. 91, s. 33 (2).

Officers, etc., of corporations

37. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. 1960-61, c. 91, s. 34.

General penalty

38.—(1) Subject to subsection 2, a person guilty of an offence against this Act is liable on summary conviction to a fine of not less than $10 and not more than $1,000.

Penalty for failure to collect tax

(2) Every person who fails to collect the tax imposed by this Act is liable on summary conviction to a fine equal to the amount of the tax that should have been collected as determined under subsection 3 and, in addition, an amount not less than $10 and not more than $1,000. 1960-61, c. 91, s. 35 (1, 2).

Idem

(3) The Minister shall determine the amount of the tax referred to in subsection 2 from such information as is available to him and shall issue a certificate as to the amount, but, except where he deems there has been deliberate evasion of this Act, the Minister shall not consider a period of more than three years in determining the amount of the tax referred to. 1960-61, c. 91, s. 35 (3); 1968-69, c. 113, s. 27 (1).

Idem

(4) In any prosecution under subsection 2, a certificate signed or purported to be signed by the Minister stating the amount of tax that should have been collected is *prima facie* evidence of the amount of tax that should have been collected and of the authority of the person giving or making the certificate without any proof of appointment or signature. 1960-61, c. 91, s. 35 (4); 1968-69, c. 113, s. 27 (2).

Idem

(5) Any information in respect of an offence under this Act may be for one or more than one offence, and no information, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Idem

(6) Neither the application of any provision of this section nor the enforcement of any penalty hereunder suspends or affects any remedy for the recovery of any tax payable under this Act. 1960-61, c. 91, s. 35 (5, 6).

Disposition of fines

(7) Fines imposed under this Act shall be paid to the Treasurer of Ontario on behalf of Her Majesty in right of Ontario. 1960-61, c. 91, s. 35 (7); 1968-69, c. 113, s. 27 (3).

Onus of proof

39. In any prosecution for failure to pay the tax or collect or remit the tax, the onus of proving that the tax was paid, collected or remitted, as the case may be, to the Minister is upon the accused. 1960-61, c. 91, s. 36; 1968-69, c. 113, s. 28.

Limitation

40. An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose. 1960-61, c. 91, s. 37.

Evidence in prosecutions

41.—(1) In a prosecution against a vendor under this Act, the application form he filed for a permit under section 3 is *prima facie* evidence that the person charged is a vendor under this Act and a return filed by him is *prima facie* evidence that he collected tax under this Act.

(2) Where a vendor is described as a partnership on an application form for a permit under section 3, the application form is *prima facie* evidence that the persons named therein are members of such partnership and a return form filed by the partnership is *prima facie* evidence that the partnership collected tax. 1960-61, c. 91, s. 38. Idem

42.—(1) For the purpose of carrying into effect the provisions of this Act according to their true intent and of supplying any deficiency therein, the Lieutenant Governor in Council may make such regulations as are considered necessary and advisable. 1960-61, c. 91, s. 39 (1). Regulations

(2) Without limiting the generality of subsection 1, the Lieutenant Governor in Council may make regulations, Idem

(*a*) prescribing the forms and records to be used for the purpose of this Act or the regulations;

(*b*) prescribing the method of collection and remittance of the tax and any condition or requirement affecting such collection or remittance;

(*c*) authorizing or requiring the Deputy Minister or any other officer of the Department of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;

(*d*) defining any expression used in this Act or the regulations;

(*e*) providing for the rebate of the tax in whole or in part to,

(i) the governing body of any religious, charitable or benevolent organization in respect of tangible personal property entering into capital investment by such organization,

(ii) the governing body of any hospital, nurses' residence, school or university in respect of tangible personal property that is purchased by such governing body pursuant to a contract entered into on or before the 31st day of May, 1964, and that enters directly into and becomes part of the construction of a hospital, nurses' residence, school or university building, where the personal property in respect of which the rebate is claimed was not purchased exempt from tax under this Act,

(iii) a municipality, or local board thereof, in respect of tangible personal property that is purchased pursuant to a contract entered into on or before the 31st day of May, 1964, and that enters directly into and becomes part of the construction of capital works, where the personal property in respect of which the

rebate is claimed was not purchased exempt from tax under this Act,

and prescribing the terms and conditions under which such rebates may be made;

(*f*) providing for relaxing the strictness of this Act relative to the incidence or collection of tax hereunder in special circumstances where, without relaxation, inconvenience or hardship might result, including cases involving the purchase of tangible personal property at bazaars and rummage sales;

(*g*) providing for the rebate of tax in whole or in part owing to special circumstances, and prescribing the terms and conditions under which such rebates may be made;

(*h*) prescribing the rates of interest payable under this Act. 1960-61, c. 91, s. 39 (2); 1964, c. 104, s. 12; 1966, c. 138, s. 7; 1968-69, c. 113, s. 29; 1970, c. 6, s. 8.

CHAPTER 416

The Rights of Labour Act

Interpretation

1. In this Act,

(*a*) "collective bargaining agreement" means an agreement between an employer and a trade union setting forth terms and conditions of employment;

(*b*) "trade union" means a combination, whether temporary or permanent, having among its objects the regulating of relations between employees and employers or between employees and employees or between employers and employers. R.S.O. 1960, c. 354, s. 1.

Trade union

2. A trade union and the acts thereof shall not be deemed to be unlawful by reason only that one or more of its objects are in restraint of trade. R.S.O. 1960, c. 354, s. 2.

Acts done by two or more members

3.—(1) Any act done by two or more members of a trade union, if done in contemplation or furtherance of a trade dispute, is not actionable unless the act would be actionable if done without any agreement or combination.

Trade union, party to action

(2) A trade union shall not be made a party to any action in any court unless it may be so made a party irrespective of any of the provisions of this Act or of *The Labour Relations Act*. R.S.O. 1970, c. 232

Collective bargaining agreement subject of action

(3) A collective bargaining agreement shall not be the subject of any action in any court unless it may be the subject of such action irrespective of any of the provisions of this Act or of *The Labour Relations Act*.

Prosecutions under R.S.O. 1970, c. 232 not effective

(4) Nothing in this Act shall be construed to prevent or otherwise affect the prosecution of a trade union or a member thereof under *The Labour Relations Act*. R.S.O. 1960, c. 354, s. 3.

Application of R.S.C. 1952, c. 236

4. The *Reinstatement in Civil Employment Act* (Canada) applies in Ontario notwithstanding the termination of World War II and notwithstanding the repeal thereof by the Parliament of Canada. R.S.O. 1960, c. 354, s. 4.

CHAPTER 417

The Royal Ontario Museum Act

Interpretation

1. In this Act,

(*a*) "Board" means the board of trustees of the Museum;

(*b*) "Museum" means The Royal Ontario Museum;

(*c*) "Unincorporated Institutions" means the institutions known before the 1st day of July, 1968 as The Royal Ontario Museum and The R. S. McLaughlin Planetarium, whose assets and rights were before that date vested in The Governors of the University of Toronto. 1968, c. 119, s. 1, *amended*.

Museum corporation continued

2.—(1) The Royal Ontario Museum is continued as a corporation without share capital consisting of the trustees for the time being of the Board. 1968, c. 119, s. 2 (1), *amended*.

Fiscal year

(2) The fiscal year of the Museum commences on the 1st day of July in each year and ends on the 30th day of June in the following year. 1968, c. 119, s. 2 (2).

Objects of Museum

3. The objects of the Museum are,

(*a*) the collection and exhibition of objects, documents and books of any kind to illustrate and make known to the public the natural history of Ontario, Canada and the world;

(*b*) the collection and exhibition of objects, documents and books of any kind to illustrate and make known to the public the history of man in all the ages;

(*c*) the operation of a planetarium;

(*d*) the promotion of education, teaching, research and publication in any or all fields related to the objects of the Museum referred to in clauses *a*, *b* and *c*. 1968, c. 119, s. 3.

Board of trustees

4.—(1) The affairs of the Museum shall be managed and controlled by a board of trustees, consisting of twenty-one trustees.

Trustees, *ex officio*

(2) The chairman of The Governors of the University of Toronto, the President of the University of Toronto and the Director of the Museum are *ex officio* trustees of the Museum.

Appointment and election

(3) Of the remaining eighteen trustees,

(*a*) fifteen shall be appointed by the Lieutenant Governor in Council; and

(*b*) three shall be elected by the members of the Museum,

each to hold office for a term of three years.

First trustees

(4) Notwithstanding subsection 3,

(*a*) on the first appointment of trustees under clause *a* of subsection 3, five trustees shall be appointed for a one-year term, five trustees shall be appointed for a two-year term and five trustees shall be appointed for a three-year term; and

(*b*) on the first election of trustees under clause *b* of subsection 3, one trustee shall be elected for a one-year term, one trustee shall be elected for a two-year term and one trustee shall be elected for a three-year term,

and in each year thereafter five trustees shall be appointed and one trustee shall be elected as provided in subsection 3.

Vacancies

(5) Where a vacancy occurs for any reason among the trustees, the vacancy shall be filled by a person appointed or elected by the body that appointed or elected the trustee whose office is vacant, and the person so appointed or elected shall hold office for the remainder of the term of office of the person whose membership is vacant.

Re-election and re-appointment of trustees

(6) Any trustee elected or appointed under subsection 3 is eligible for re-election or reappointment for one additional term, but on the expiration of his second term he is not eligible for re-election or reappointment until at least one year has elapsed from the expiration of such term.

Quorum

(7) Seven trustees constitute a quorum for meetings of the Board.

Chairman

(8) One of the members of the Board shall be appointed by the Lieutenant Governor in Council to be its chairman.

Vice-chairman

(9) The Board may appoint one of its members to be vice-chairman.

Presiding officer

(10) The chairman shall preside at all meetings of the Board and, in his absence, the vice-chairman shall preside, and, in the absence of the chairman and the vice-chairman, the trustees present at a meeting shall appoint one of their number to preside. 1968, c. 119, s. 4.

Powers of Board

5. The Board has all the powers necessary or convenient to achieve the objects of the Museum and, without limiting the generality of the foregoing, may,

(*a*) make by-laws, rules and regulations,

(i) for the administration of the affairs of the Museum,

(ii) governing the use by the public of the facilities, property and equipment of the Museum and requiring the payment of fees for the admission of the public or any class thereof to such facilities and property, and prescribing the amounts of such fees, and

(iii) providing for membership in the Museum and prescribing the qualifications and terms of membership and the fees, if any, to be paid therefor, and providing for and regulating meetings of the members;

(*b*) appoint a Director of the Museum;

(*c*) appoint, promote, transfer or remove an Associate Director or Associate Directors and all curators, officers and staff as are necessary for the proper conduct of the affairs of the Museum on the recommendation of the Director;

(*d*) fix the duties, salaries and qualifications of office or employment and other emoluments of the Director, the Associate Director or Directors, curators, officers and members of the staff of the Museum;

(*e*) provide for the retirement and superannuation of persons mentioned in clauses *b* and *c*;

(*f*) appoint by resolution a trustee or trustees of the Board, or any other person or persons, to execute on behalf of the Board any documents and other instruments in writing and to affix the corporate seal of the Museum thereto;

(*g*) pass a by-law authorizing the trustees to elect from among their number an executive committee consisting of not fewer than three and to delegate to the executive committee any powers of the Board, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the trustees, and authorizing the trustees to fix the quorum of the executive committee at not less than a majority of its members;

(*h*) appoint committees from the trustees of the Board and such other committees as are considered desirable, and confer upon any such committees authority to act for the Board with respect to any matter or classes of matters;

(*i*) establish, maintain and operate a museum and a planetarium and related facilities as required or convenient for carrying out the objects of the Museum;

(*j*) enter into agreements with any association or organization having objects similar to those of the Museum;

(*k*) enter into agreements with any governing body of a university, college or school,

(i) to provide for the interchange of staff, and

(ii) generally in other areas consistent with the objects of the Museum;

(*l*) solicit, receive and hold gifts of every nature for any purpose related to the objects of the Museum upon such trusts and conditions as seem proper to the Board, and administer such gifts in accordance with such trusts and conditions; and

(*m*) generally conduct and manage the business and affairs of the Museum. 1968, c. 119, s. 5.

Duties and powers of Director

6. The Director is the chief executive officer of the Museum and has general supervision over and direction of the operations of the Museum, and the Associate Director or Directors, curators, officers and staff thereof, and has such other powers and shall perform such other duties as from time to time may be conferred upon or assigned to him by the Board, and without limiting the generality of the foregoing,

(*a*) shall make recommendations to the Board as to all appointments to and all promotions in, and removals from the staff of the Museum including the Associate Director or Directors, curators and officers;

(*b*) may suspend the Associate Director or Directors, any curator, officer or member of the staff of the Museum, and, forthwith, after suspending any person, shall report his action to the Board with a statement of his reasons therefor; and

(*c*) shall report annually to the Board on the affairs of the Museum and make such recommendations thereon as he considers necessary. 1968, c. 119, s. 6.

Transfer of assets

7.—(1) All property, real and personal, and the undertaking and assets, with all the rights, powers, privileges and immunities now vested in, owned, held, possessed or enjoyed by The Governors of the University of Toronto and which relate to the Unincorporated Institutions, including but not limited to the real property described in the Schedule hereto, are hereby vested in the Museum without the necessity of any other grant, conveyance, transfer, assignment or vesting thereof subject to the provisions of this Act, and the Museum shall assume, satisfy and perform all debts and obligations relating to such property, undertaking and assets and shall indemnify The Governors of the University of Toronto from such debts and obligations. 1968, c. 119, s. 7 (1).

(2) Without limiting the generality of subsection 1, all gifts, devises, deeds, conveyances, transfers and leases of any real property or of any interest therein and all gifts, bequests, assignments, loans and transfers of any personal property or of any interest therein, which have been or shall hereafter be made or intended for The Governors of the University of Toronto for the purposes of any one or both of the Unincorporated Institutions are hereby vested in the Museum as fully and effectually as if any such gift, devise, deed, conveyance, transfer, lease, loan, bequest or assignment had been made to the Museum, but any property, real or personal, relating to any one or both of the Unincorporated Institutions and vested before the 1st day of July, 1968 in The Governors of the University of Toronto for any special purposes or trusts shall be held for such purposes and trusts, and with, under and subject to the same powers, obligations and provisions as are in force or declared under any statute, deed or other instrument affecting such property respectively and any property, real or personal, hereafter given, devised, bequeathed, assigned or transferred to or intended for the Museum or for any one or both of the Unincorporated Institutions, shall vest in the Museum and shall be held for the purposes and trusts and with, under and subject to the powers, obligations and provisions as are declared under any statute, deed or other instrument affecting such property respectively, and The Governors of the University of Toronto are relieved of any liability in respect of such property under any such statute, deed or other instrument. Rights to other assets

(3) The lands used before the 1st day of July, 1968 for any one or both of the Unincorporated Institutions that are vested in the Museum by subsection 1, are subject to the right of The Governors of the University of Toronto at all times to maintain and operate the tunnels passing through such lands and the works connected therewith constructed for the purpose of the power plant and air conditioning plant of the University of Toronto and to keep them in repair, and the right at all times as occasion may require to enter upon such lands and the buildings thereon for the purpose of inspecting, maintaining and repairing such tunnels and works, and to do all things that may be necessary or convenient for that purpose. 1968, c. 119, s. 7 (2, 3), *amended*. Present lands vested in the Museum subject to certain rights

8. The Museum has, in addition to the powers, rights and privileges mentioned in section 26 of *The Interpretation Act*, power to purchase or otherwise acquire, take or receive by gift, bequest or devise and to hold and enjoy, any estate or property whatsoever, whether real or personal, and to sell, grant, convey, mortgage, lease or otherwise dispose of the same or any part thereof from time to time and as occasion may require, and to acquire other estate or property in addition thereto or in place thereof without Property R.S.O. 1970 c. 225

licence in mortmain and without limitation as to the period of holding. 1968, c. 119, s. 8.

Exemption from taxation

9. The Museum and its real and personal property, business and income are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature. 1968, c. 119, s. 9.

Property of Museum not liable to expropriation

10. Real property vested in the Museum is not liable to be entered upon, used or taken by any corporation, except a municipal corporation, or by any person possessing the right of taking real property compulsorily for any purpose, and no power to expropriate real property conferred on or after the 1st day of July, 1968 shall extend to such property unless in the Act conferring the power it is made in express terms to apply thereto. 1968, c. 119, s. 10, *amended*.

Borrowing powers

11.—(1) The Board may borrow money upon the credit of the Museum, and may issue bonds, debentures or other securities of the Museum, and may pledge or sell them for such sums or at such prices as may be considered expedient or necessary, and may hypothecate, mortgage or pledge all or any of the real or personal property, rights or powers of the Museum to secure any bonds, debentures or other securities and any indebtedness of or money borrowed for the purposes of the Museum.

Limitation

(2) The amount that may be borrowed under subsection 1 together with the total amount of any such borrowings that remain unpaid shall not exceed at any one time $100,000 without the approval of the Lieutenant Governor in Council, but a lender is not bound to inquire as to the compliance by the Museum with this subsection and where any loan is made it shall be deemed to have been lawfully made under the authority of this section. 1968, c. 119, s. 11.

Application of property

12. The property and the income, revenues, issues and profits of all property of the Museum shall be applied solely to achieving the objects of the Museum. 1968, c. 119, s. 12.

Investment of funds

13. The funds of the Museum not immediately required for its purposes and the proceeds of all property that come to the Museum, subject to any trust or trusts affecting the same, may be invested and reinvested in such investments as the Board considers meet. 1968, c. 119, s. 13.

Audit

14. The accounts and financial transactions of the Museum shall be audited annually by an auditor or auditors appointed by the Board. 1968, c. 119, s. 14.

15. The Board shall make a report annually to the Lieutenant Governor in Council and shall make such other reports as he may request from time to time. 1968, c. 119, s. 15. Report

16. Nothing in this Act authorizes the Board to alienate, hypothecate, mortgage or pledge any real or personal property given, devised or bequeathed with a condition annexed to such gift that the property shall not be alienated, hypothecated, mortgaged or pledged. 1968, c. 119, s. 16. Trust property

SCHEDULE

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Toronto, in the County of York and Province of Ontario, being composed of Lots 50, 53 and part of Lot 70 according to a Plan filed in the Registry Office for the Registry Division of Toronto as No. D-178 the part of a Road closed by a Plan filed in the said Registry Office as No. 207E, Block B according to a Plan filed in the said Registry Office as No. 211E, Block A according to a Plan filed in the said Registry Office as No. 225E, and parts of Lots 1 and 2 according to a Plan filed in the said Registry Office as No. 452-E, the boundaries of the said parcel of land being described as follows:

COMMENCING at a point in the westerly limit of Queen's Park Drive, where the same is intersected by the southerly limit of Bloor Street West as widened by By-law No. 9416 of the Municipal Corporation of the City of Toronto, the said point of intersection being distant thirteen feet ten and one-quarter inches (13′ 10¼″) more or less measured southerly along the said westerly limit from the northerly limit of lands included in the said Plan No. 452-E;

THENCE westerly along the southerly limit of Bloor Street West widened as aforesaid, a distance of one hundred and seventy-one feet seven and three-quarter inches (171′ 7¾″) more or less to an angle therein;

THENCE continuing westerly along the said southerly limit of Bloor Street West, a distance of two hundred and seven feet one inch (207′ 1″) more or less to the point of intersection thereof with the westerly limit of the said Lot 2 according to Plan No. 452-E;

THENCE southerly along the last mentioned westerly limit a distance of five hundred and twenty feet four and one-quarter inches (520′ 4¼″) more or less to the southwesterly angle of the said Lot 2;

THENCE easterly along the southerly limit of the said Lot 2, a distance of one hundred and eighty-five feet (185′ 0″) more or less to the southeasterly angle of Lot 2 aforesaid;

THENCE southerly along the westerly limit of the said Lot 70 according to Plan No. D-178, a distance of one hundred and one feet and one-half inch (101′ 0½″) more or less to a point therein distant fifty-eight feet six inches (58′ 6″) measured northerly thereon from the southerly limit of the said Lot 70;

THENCE easterly parallel with the said southerly limit of Lot 70, a distance of two hundred feet (200′ 0″) more or less to the point of intersection thereof with the said westerly limit of Queen's Park Drive;

THENCE northerly along the said westerly limit of Queen's Park Drive, a distance of six hundred and twenty-three feet four and three-quarter inches (623′ 4¾″) more or less to the said point of commencement;

SUBJECT TO an easement for subway purposes in favour of The Municipality of Metropolitan Toronto as described in an Instrument filed in the said Registry Office as No. 122702 E.P.

1968, c. 119, Sched.

CHAPTER 418

The Rural Housing Assistance Act

Lending corporation to be created R.S.O. 1970, c. 89

1.—(1) There shall be incorporated under *The Corporations Act* a company with the name "The Rural Housing Finance Corporation", herein called "the Company", with power to lend and invest money on mortgage of real estate in order to provide financial assistance in the building of houses in rural villages and hamlets and in other rural areas.

Power to issue debentures

(2) Notwithstanding subsection 3 of section 4 of *The Corporations Act*, the Company may issue bonds, debentures or debenture stock. R.S.O. 1960, c. 355, s. 1.

Exercise of powers R.S.C. 1952, c. 188

2. The Company may exercise its power of lending money independently or in co-operation with Central Mortgage and Housing Corporation under the *National Housing Act* (Canada) or with any other corporation incorporated for similar purposes. R.S.O. 1960, c. 355, s. 2.

Provincial guarantee

3.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to purchase or to guarantee the payment of any notes, bonds, debentures or debenture stock issued by the Company.

Form of guaranty

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council. R.S.O. 1960, c. 355, s. 3 (1, 2).

Validity of guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province of Ontario and is not open to question upon any ground whatsoever. R.S.O. 1960, c. 355, s. 3 (3), *amended*.

Provincial advance on loans

4.—(1) The Lieutenant Governor in Council may advance moneys by way of loan or otherwise to the Company for its purposes.

Idem

(2) Any moneys advanced or loaned to the Company by the Crown under this Act shall be paid out of the Consolidated Revenue Fund. R.S.O. 1960, c. 355, s. 4.

Cost of administration

5. The cost of administration of this Act shall be paid out of the Consolidated Revenue Fund. R.S.O. 1960, c. 355, s. 5.

Administration of Act

6. This Act shall be administered by the Minister of Trade and Development or such other member of the Executive Council to whom it may be assigned by the Lieutenant Governor in Council. R.S.O. 1960, c. 355, s. 6, *amended*.

CHAPTER 419

The Rural Hydro-Electric Distribution Act

Grants in aid of distribution works in rural power districts

1. Upon the recommendation of The Hydro-Electric Power Commission of Ontario and the order of the Lieutenant Governor in Council, the Treasurer of Ontario may pay out of the Consolidated Revenue Fund to any commission or municipal corporation distributing power in the rural power district under *The Power Commission Act*, a sum not exceeding 50 per cent of the capital cost of acquiring and constructing in the rural power district, lands and works, including plant, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment, for the supply of power to any customer or premises up to the point of delivery by such commission or corporation. R.S.O. 1960, c. 356, s. 1.

R.S.O. 1970, c. 354

Grants in aid of works in townships or urban municipality adjoining township in rural power district

2. Upon the recommendation of The Hydro-Electric Power Commission of Ontario and the order of the Lieutenant Governor in Council, the Treasurer of Ontario may pay out of the Consolidated Revenue Fund to the corporation of a township or of an urban municipality supplying or distributing electrical power or energy in an adjoining township or within a rural power district under *The Public Utilities Act* or any other general or special Act, a sum not exceeding 50 per cent of the capital cost of constructing or erecting in such adjoining township or rural power district primary transmission lines and cables, service transformers and meters and secondary lines on the highway required for the delivery of power or energy in such adjoining township or in such rural power district. R.S.O. 1960, c. 356, s. 2.

R.S.O. 1970, c. 390

Grants chargeable to capital account

3. All sums paid to any commission or municipal corporation under the authority of section 1 or 2 shall be chargeable in the books of the Treasurer of Ontario as expenditure upon capital account. R.S.O. 1960, c. 356, s. 3.

CHAPTER 420

The Rural Power District Loans Act

Interpretation

1. In this Act,

(*a*) "Commission" means The Hydro-Electric Power Commission of Ontario;

(*b*) "regulations" means the regulations made under this Act. R.S.O. 1960, c. 357, s. 1.

Fund set apart

2.—(1) The Lieutenant Governor in Council may set apart out of the Consolidated Revenue Fund a sum not exceeding $2,000,000 for the purpose of providing advances towards the installation of electrical services in the rural power district.

Payments out of fund to Commission

(2) The Lieutenant Governor in Council may from time to time direct that such payments be made to the Commission out of the moneys so set apart as the Commission may report to be necessary in order to enable advances to be made under this Act.

Installation to include

(3) Subject to the regulations, the installation in respect of which aid may be granted under this Act includes,

(*a*) wiring from the transmission or distribution lines of the Commission into and throughout dwellings, barns, outhouses and any other works that may from time to time be specified in the regulations;

(*b*) such transformers, motors and other appliances as may be necessary or expedient for any industrial, agricultural or domestic purposes or which may be specified in the regulations. R.S.O. 1960, c. 357, s. 2.

Application for advance

3.—(1) A person assessed as owner and being the actual owner of lands and premises in the rural power district desiring to procure an advance under this Act may make application, in the form prescribed by the regulations, to the Commission.

Proofs to accompany application

(2) The application shall not be acted upon unless it is accompanied by the declaration of the applicant stating that he is the actual owner of the lands and premises mentioned in the application and that they are free from encumbrance, or if the lands and premises, or any part thereof, are mortgaged or otherwise encumbered, stating the name and address of the mortgagee or encumbrancer, and where the mortgage or encumbrance has been assigned, the name and address of the assignee.

Notice to encumbrancers

(3) Where it appears that there is a mortgage or encumbrance upon the lands or premises or any part thereof the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered letter sent to him by the secretary of the Commission to his last-known address. R.S.O. 1960, c. 357, s. 3.

Limit of amount of advance

4. An advance under this Act shall not exceed in amount the sum of $1,000 in the case of any owner, and every advance is repayable with interest within twenty years at the furthest. R.S.O. 1960, c. 357, s. 4.

Control as to installation and specifications

5. Every installation in respect of which an advance is made under this Act shall be made in such manner and according to such specifications as the Commission may prescribe and the work of installation is subject to the approval of the Commission and no advance shall be made under this Act except upon the recommendation of the Commission. R.S.O. 1960, c. 357, s. 5.

Repayment of advance

6.—(1) Every advance made under this Act is a debt due from the owner of the lands and premises upon which the installation is made to the Commission and is repayable to the Commission at the time and in such manner as may be prescribed by the regulations, and the amounts so received by the Commission shall be transmitted to the Treasurer of Ontario.

Default in repayment of advance

(2) Where default is made in the repayment of any advance under this Act, or in any instalment thereof, or in the payment of interest thereon, the Commission may give notice in writing of such default to the clerk of the municipality in which the lands and premises are situate, and the amount in default shall thereupon be inserted in the collector's roll as a tax in the same manner as in the case of municipal taxes, and when collected shall be paid over by the treasurer of the municipality to the Commission. R.S.O. 1960, c. 357, s. 6.

Registration of notice of lien

7.—(1) The Commission shall cause a notice of the advance, in the form prescribed by the regulations, to be registered in the proper registry or land titles office and such registration is notice to subsequent purchasers or mortgagees or other encumbrancers that the advance made under this Act is a lien or charge upon the lands and premises owned by the applicant.

Registration of certificate of repayment

(2) Where notice has been registered under subsection 1 and the advance has been subsequently repaid, a certificate of repayment in the form prescribed by the regulations may be delivered to the owner of the lands and premises and may be registered by him, and such registration has the effect of discharging the lien or charge.

(3) The fee for registering a notice or certificate of repayment under this section is 50 cents. R.S.O. 1960, c. 357, s. 7. Fee

8.—(1) The property in any works installed in respect of which an advance is made under this Act is, while such advance remains unpaid, in the Commission, and in addition to any other remedy, in case of default in repayment of the advance, or of any instalment thereof, or in the payment of interest thereon, the Commission may by its officers, servants and agents enter upon the premises and take possession of and remove transformers, motors or other appliances or fixtures forming part of such installation. Property in works to be in Commission until advance repaid

(2) A chattel mortgage, lien note or other instrument registered or filed, or any judgment or other legal process does not have priority over the lien created by an advance from the Commission under this Act. R.S.O. 1960, c. 357, s. 8. Priority over lien note, etc.

9. The Lieutenant Governor in Council may make regulations prescribing the terms and conditions upon which advances may be made under this Act and respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 357, s. 9. Regulations

CHAPTER 421

The Sale of Goods Act

1.—(1) In this Act, Interpretation

(*a*) "action" includes a counterclaim and a set off;

(*b*) "buyer" means the person who buys or agrees to buy goods;

(*c*) "contract of sale" includes an agreement to sell as well as a sale;

(*d*) "delivery" means the voluntary transfer of possession from one person to another;

(*e*) "document of title" includes a bill of lading and warehouse receipt as defined by *The Mercantile Law Amendment Act*, any warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize, either by endorsement or delivery, the possessor of the document to transfer or receive goods thereby represented; R.S.O. 1970, c. 272

(*f*) "fault" means a wrongful act or default;

(*g*) "goods" means all chattels personal, other than things in action and money, and includes emblements, industrial growing crops, and things attached to or forming part of the land that are agreed to be severed before sale or under the contract of sale;

(*h*) "plaintiff" includes a defendant counterclaiming;

(*i*) "property" means the general property in goods and not merely a special property;

(*j*) "quality of goods" includes their state or condition;

(*k*) "sale" includes a bargain and sale as well as a sale and delivery;

(*l*) "seller" means a person who sells or agrees to sell goods;

(*m*) "specific goods" means the goods identified and agreed upon at the time the contract of sale is made;

(*n*) "warranty" means an agreement with reference to goods that are the subject of a contract of sale but collateral to the main purpose of the contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

Things done in good faith

(2) A thing shall be deemed to be done in good faith within the meaning of this Act when it is in fact done honestly whether it is done negligently or not.

What deemed insolvency

(3) A person shall be deemed to be insolvent within the meaning of this Act who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.

Deliverable state

(4) Goods shall be deemed to be in a "deliverable state" within the meaning of this Act when they are in such a state that the buyer would under the contract be bound to take delivery of them. R.S.O. 1960, c. 358, s. 1.

PART I

FORMATION OF THE CONTRACT

Sale and agreement to sell

2.—(1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in the goods to the buyer for a money consideration, called the price, and there may be a contract of sale between one part owner and another.

Absolute or conditional

(2) A contract of sale may be absolute or conditional.

What constitutes a sale or agreement to sell

(3) Where under a contract of sale the property in goods is transferred from the seller to the buyer, the contract is called a sale, but, where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell.

When agreement becomes sale

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred. R.S.O. 1960, c. 358, s. 2.

Capacity

3.—(1) Capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property, but where necessaries are sold and delivered to a minor or to a person who by reason of mental incapacity or drunkenness is incompetent to contract, he shall pay a reasonable price therefor.

What deemed necessaries

(2) Necessaries in this section mean goods suitable to the conditions in life of the minor or other person and to his actual requirements at the time of the sale and delivery. R.S.O. 1960, c. 358, s. 3, *amended*.

Contract, how made

4. Subject to this Act and any statute in that behalf, a contract of sale may be made in writing, either with or without seal, or by word of mouth or partly in writing and partly by word of mouth, or may be implied from the conduct of the parties, but

nothing in this section affects the law relating to corporations. R.S.O. 1960, c. 358, s. 4.

Contracts for $40 or more

5.—(1) A contract for the sale of goods of the value of $40 or more is not enforceable by action unless the buyer accepts part of the goods so sold and actually receives them, or gives something in earnest to bind the contract or in part payment, or unless some note or memorandum in writing of the contract is made and signed by the party to be charged or his agent in that behalf.

Future delivery

(2) This section applies to every such contract notwithstanding that the goods may be intended to be delivered at some future time, or may not at the time of the contract be actually made, procured, or provided, or fit or ready for delivery, or some act may be requisite for the making or completing thereof, or rendering them fit for delivery.

Acceptance of goods, what constitutes

(3) There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods that recognizes a pre-existing contract of sale, whether there is an acceptance in performance of the contract or not. R.S.O. 1960, c. 358, s. 5, *amended*.

What goods may be subject of contract

6.—(1) The goods that form the subject of a contract of sale may be either existing goods owned or possessed by the seller or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Act called "future goods".

Contingency

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency that may or may not happen.

Sale of future goods

(3) Where by a contract of sale the seller purports to effect a present sale of future goods, the contract operates as an agreement to sell the goods. R.S.O. 1960, c. 358, s. 6.

Goods that have perished

7. Where there is a contract for the sale of specific goods and the goods without the knowledge of the seller have perished at the time the contract is made, the contract is void. R.S.O. 1960, c. 358, s. 7.

Goods perishing before sale but after agreement to sell

8. Where there is an agreement to sell specific goods and subsequently the goods without any fault of the seller or buyer perish before the risk passes to the buyer, the agreement is thereby avoided. R.S.O. 1960, c. 358, s. 8.

Price determined

9.—(1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

Where price not determined

(2) Where the price is not determined in accordance with the foregoing provisions, the buyer shall pay a reasonable price, and what constitutes a reasonable price is a question of fact dependent on the circumstances of each particular case. R.S.O. 1960, c. 358, s. 9.

Agreement to sell at valuation

10.—(1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and the third party cannot or does not make the valuation, the agreement is avoided, but if the goods or any part thereof have been delivered to and appropriated by the buyer, he shall pay a reasonable price therefor.

Valuation prevented by act of party

(2) Where the third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault. R.S.O. 1960, c. 358, s. 10.

Stipulations as to time

11. Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not of the essence of a contract of sale, and whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract. R.S.O. 1960, c. 358, s. 11, *amended*.

When condition to be treated a warranty

12.—(1) Where a contract of sale is subject to a condition to be fulfilled by the seller, the buyer may waive the condition or may elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

Stipulation which may be condition or warranty

(2) Whether a stipulation in a contract of sale is a condition the breach of which may give rise to a right to treat the contract as repudiated or a warranty the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated depends in each case on the construction of the contract, and a stipulation may be a condition, though called a warranty in the contract.

Where breach of condition to be treated as breach of warranty

(3) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof, or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is a term of the contract, express or implied, to that effect.

Fulfillment excused by impossibility

(4) Noting in this section affects the case of a condition or warranty, fulfillment of which is excused by law by reason of impossibility or otherwise. R.S.O. 1960, c. 358, s. 12.

Implied conditions and warranties

13. In a contract of sale, unless the circumstances of the contract are such as to show a different intention, there is,

(*a*) an implied condition on the part of the seller than in the case of a sale he has a right to sell the goods, and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass;

(*b*) an implied warranty that the buyer will have and enjoy quiet possession of the goods; and

(*c*) an implied warranty that the goods will be free from any charge or encumbrance in favour of any third party, not declared or known to the buyer before or at the time when the contract is made. R.S.O. 1960, c. 358, s. 13.

Sale by description

14. Where there is a contract for the sale of goods by description, there is an implied condition that the goods will correspond with the description, and, if the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description. R.S.O. 1960, c. 358, s. 14.

Implied conditions as to quality or fitness

15. Subject to this Act and any statute in that behalf, there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale, except as follows:

1. Where the buyer, expressly or by implication, makes known to the seller the particular purpose for which the goods are required so as to show that the buyer relies on the seller's skill or judgment, and the goods are of a description that it is in the course of the seller's business to supply (whether he is the manufacturer or not), there is an implied condition that the goods will be reasonably fit for such purpose, but in the case of a contract for the sale of a specified article under its patent or other trade name there is no implied condition as to its fitness for any particular purpose.

2. Where goods are bought by description from a seller who deals in goods of that description (whether he is the manufacturer or not), there is an implied condition that the goods will be of merchantable quality, but if the buyer has examined the goods, there is no implied condition as regards defects that such examination ought to have revealed.

3. An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade.

4. An express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith. R.S.O. 1960, c. 358, s. 15.

Sale by sample

16.—(1) A contract of sale is a contract for sale by sample where there is a term in the contract, express or implied, to that effect.

Implied conditions

(2) In the case of a contract for sale by sample, there is an implied condition,

(*a*) that the bulk will correspond with the sample in quality;

(*b*) that the buyer will have a reasonable opportunity of comparing the bulk with the sample; and

(*c*) that the goods will be free from any defect rendering them unmerchantable that would not be apparent on reasonable examination of the sample. R.S.O. 1960, c. 358, s. 16.

PART II

EFFECTS OF THE CONTRACT

Goods must be ascertained

17. Where there is a contract for the sale of unascertained goods, no property in the goods is transferred to the buyer until the goods are ascertained. R.S.O. 1960, c. 358, s. 17, *amended*.

Property passes where intended to pass

18.—(1) Where there is a contract for the sale of specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

Ascertaining intention

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case. R.S.O. 1960, c. 358, s. 18.

Rules for ascertaining intention

19. Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer:

Rule 1.—Where there is an unconditional contract for the sale of specific goods in a deliverable state, the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment or the time of delivery or both is postponed.

Rule 2.—Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state, the property does not pass until such thing is done and the buyer has notice thereof.

Rule 3.—Where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

Rule 4.—When goods are delivered to the buyer on approval or "on sale or return" or other similar terms, the property therein passes to the buyer:

(i) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction;

(ii) if he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then if a time has been fixed for the return of the goods, on the expiration of such time, and, if no time has been fixed, on the expiration of a reasonable time, and what is a reasonable time is a question of fact.

Rule 5.—(i) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract, either by the seller with the assent of the buyer, or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer, and such assent may be expressed or implied and may be given either before or after the appropriation is made.

(ii) Where in pursuance of the contract the seller delivers the goods to the buyer or to a carrier or other bailee (whether named by the buyer or not) for the purpose of transmission to the buyer and does not reserve the right of disposal, he shall be deemed to have unconditionally appropriated the goods to the contract. R.S.O. 1960, c. 358, s. 19, *amended*.

Reservation of right of disposal

20.—(1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled, and in such case, notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller have been fulfilled. R.S.O. 1960, c. 358, s. 20 (1).

Goods deliverable to order of seller

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller

prima facie reserves the right of disposal. R.S.O. 1960, c. 358, s. 20 (2), *amended*.

Where seller draws on buyer and sends draft with bill of lading

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange, and if he unlawfully retains the bill of lading, the property in the goods does not pass to him. R.S.O. 1960, c. 358, s. 20 (3).

Risk *prima facie* passes with property

21. Unless otherwise agreed, the goods remain at the seller's risk until the property therein is transferred to the buyer, but, when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not, but,

(*a*) where delivery has been delayed through the fault of either the buyer or seller, the goods are at the risk of the party in fault as regards any loss that might not have occurred but for such fault; and

(*b*) nothing in this section affects the duties or liabilities of either seller or buyer as a bailee of the goods of the other party. R.S.O. 1960, c. 358, s. 21.

Sale by person other than owner

22. Subject to this Act, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell but nothing in this Act affects,

R.S.O. 1970, c. 156

(*a*) *The Factors Act* or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof; or

(*b*) the validity of any contract of sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction. R.S.O. 1960, c. 358, s. 22.

Law as to market overt does not apply

23. The law relating to market overt does not apply to a sale of goods that takes place in Ontario. R.S.O. 1960, c. 358, s. 23.

Sale under voidable title

24. When the seller of goods has a voidable title thereto but his title has not been avoided at the time of the sale, the buyer acquires a good title to the goods, if he buys them in good faith and without notice of the seller's defective title. R.S.O. 1960, c. 358, s. 24.

Seller in possession after sale

25.—(1) Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent

acting for him, of the goods or documents of title under a sale, pledge or other disposition thereof to a person receiving the goods or documents of title in good faith and without notice of the previous sale, has the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the delivery or transfer.

Buyer in possession after sale

(2) Where a person having bought or agreed to buy goods obtains, with the consent of the seller, possession of the goods or the documents of title to the goods, the delivery or transfer by that person, or by a mercantile agent acting for him, of the goods or documents of title, under a sale, pledge or other disposition thereof to a person receiving the goods or documents of title in good faith and without notice of any lien or other right of the original seller in respect of the goods, has the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner. R.S.O. 1960, c. 358, s. 25 (1, 2), *amended*.

Security interests excepted

R.S.O. 1970, c. 344

(3) Subject to subsection 5, subsection 2 does not apply to goods the possession of which has been obtained by a buyer under a security agreement whereby the seller retains a security interest within the meaning of *The Personal Property Security Act*, and the rights of the parties shall be determined by that Act. 1967, c. 89, s. 1.

Interpretation

(4) In this section, "mercantile agent" means a mercantile agent having, in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale, or to buy goods, or to raise money on the security of goods. R.S.O. 1960, c. 358, s. 25 (3).

Commencement of subs. 3

(5) Subsection 3 comes into force on a day to be named by the Lieutenant Governor by his proclamation. 1967, c. 89, s. 2.

PART III

PERFORMANCE OF THE CONTRACT

Duties of seller and buyer

26. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the contract of sale. R.S.O. 1960, c. 358, s. 26.

Payment and delivery concurrent

27. Unless otherwise agreed, delivery of the goods and payment of the price are concurrent conditions, that is to say, the seller shall be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer shall be ready and willing to pay the price in exchange for possession of the goods. R.S.O. 1960, c. 358, s. 27.

Rules as to delivery

28.—(1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question

depending in each case on the contract, express or implied, between the parties, and apart from any such contract, express or implied, the place of delivery is the seller's place of business, if he has one, and if not, his residence, but where the contract is for the sale of specific goods that to the knowledge of the parties, when the contract is made, are in some other place, then that place is the place of delivery.

Where no time for delivery fixed

(2) Where under the contract of sale the seller is bound to send the goods to the buyer but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

Where goods in possession of third person

(3) Where the goods at the time of sale are in the possession of a third person, there is no delivery by the seller to the buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf, but nothing in this section affects the operation of the issue or transfer of any document of title to goods.

Demand or tender of delivery

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour, and what is a reasonable hour is a question of fact.

Expenses of putting goods in deliverable state

(5) Unless otherwise agreed, the expenses of and incidental to putting the goods in a deliverable state shall be borne by the seller. R.S.O. 1960, c. 358, s. 28.

Delivery of wrong quantity

29.—(1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell, the buyer may reject them, but if the buyer accepts the goods so delivered, he shall pay for them at the contract rate.

Where quantity larger than contracted for

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell, the buyer may accept the goods included in the contract and reject the rest, or he may reject the whole, and if the buyer accepts the whole of the goods so delivered, he shall pay for them at the contract rate. R.S.O. 1960, c. 358, s. 29 (1, 2).

Goods not in accordance with contract

(3) Where the seller delivers to the buyer the goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods that are in accordance with the contract and reject the rest, or he may reject the whole.

Exceptions as to trade customs, etc.

(4) This section is subject to any usage of trade, special agreement or course of dealing between the parties. R.S.O. 1960, c. 358, s. 29 (3, 4).

Delivery by instalments

30.—(1) Unless otherwise agreed, the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments that are to be separately paid for and the seller makes defective deliveries in respect of one or more instalments or fails to deliver one or more instalments or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a claim for compensation but not to a right to treat the whole contract as repudiated. R.S.O. 1960, c. 358, s. 30. Where instalments are not delivered as contracted for

31.—(1) Where in pursuance of a contract of sale the seller is authorized or required to send the goods to the buyer, the delivery of the goods to a carrier whether named by the buyer or not, for the purpose of transmission to the buyer, is *prima facie* a delivery of the goods to the buyer. R.S.O. 1960, c. 358, s. 31 (1). Delivery to carrier

(2) Unless otherwise authorized by the buyer, the seller shall make a contract with the carrier on behalf of the buyer that is reasonable having regard to the nature of the goods and the other circumstances of the case, and if the seller omits so to do and the goods are lost or damaged in course of transit, the buyer may decline to treat the delivery to the carrier as a delivery to himself or may hold the seller responsible in damages. R.S.O. 1960, c. 358, s. 31 (2). Seller's contract with carrier

32. Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold, the buyer nevertheless, unless otherwise agreed, takes any risk of deterioration in the goods necessarily incident to the course of transit. R.S.O. 1960, c. 358, s. 32, *amended*. Agreement for delivery elsewhere than at place of sale

33.—(1) Where goods are delivered to the buyer that he has not previously examined, he shall be deemed not to have accepted them until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract. Rights of buyer as to examination

(2) Unless otherwise agreed, when the seller tenders delivery of goods to the buyer, he shall, on request, afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract. R.S.O. 1960, c. 358, s. 33, *amended*. Seller to afford opportunity for examination

34. The buyer shall be deemed to have accepted the goods when he intimates to the seller that he has accepted them, or when the goods have been delivered to him and he does any act in relation to them that is inconsistent with the ownership of the seller, or when, after the lapse of a reasonable time, he retains the Acceptance of goods

goods without intimating to the seller that he has rejected them. R.S.O. 1960, c. 358, s. 34, *amended*.

Effect of refusal to accept

35. Unless otherwise agreed, where goods are delivered to the buyer and he refuses to accept them, having the right so to do, he is not bound to return them to the seller, but it is sufficient if he intimates to the seller that he refuses to accept them. R.S.O. 1960, c. 358, s. 35.

Wrongful neglect or refusal to take delivery

36. When the seller is ready and willing to deliver the goods and requests the buyer to take delivery and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery, and also for a reasonable charge for the care and custody of the goods, but nothing in this section affects the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract. R.S.O. 1960, c. 358, s. 36.

PART IV

RIGHTS OF UNPAID SELLER AGAINST THE GOODS

Interpretation

37.—(1) The seller of goods shall be deemed to be an "unpaid seller" within the meaning of this Act,

(*a*) when the whole of the price has not been paid or tendered;

(*b*) when a bill of exchange or other negotiable instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise. R.S.O. 1960, c. 358, s. 37 (1).

Idem

(2) In this Part, "seller" includes a person who is in the position of a seller, as for instance an agent of the seller to whom the bill of lading has been endorsed, or a consignor or agent who has himself paid or is directly responsible for the price. R.S.O. 1960, c. 358, s. 37 (2).

Rights of unpaid seller

38.—(1) Subject to this Act and any statute in that behalf, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods, as such, has by implication of law,

(*a*) a lien on the goods or right to retain them for the price while he is in possession of them;

(*b*) in case of the insolvency of the buyer, a right of stopping the goods in transitu after he has parted with the possession of them;

(*c*) a right of resale as limited by this Act.

Withholding delivery

(2) Where the property in goods has not passed to the buyer, the unpaid seller has, in addition to his other remedies, a right of withholding delivery similar to and co-extensive with the rights of lien and stoppage in transitu where the property has passed to the buyer. R.S.O. 1960, c. 358, s. 38.

Unpaid seller's lien

39.—(1) Subject to this Act, the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price,

(*a*) where the goods have been sold without any stipulation as to credit;

(*b*) where the goods have been sold on credit but the term of credit has expired; or

(*c*) where the buyer becomes insolvent.

Seller in possession as agent

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer. R.S.O. 1960, c. 358, s. 39.

Where part delivery has been made

40. Where an unpaid seller has made part delivery of the goods, he may exercise his right of lien or retention on the remainder unless the part delivery has been made under such circumstances as show an agreement to waive the lien or right of retention. R.S.O. 1960, c. 358, s. 40.

Termination of lien

41.—(1) The unpaid seller of goods loses his lien or right of retention thereon,

(*a*) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(*b*) when the buyer or his agent lawfully obtains possession of the goods; or

(*c*) by waiver thereof.

Lien not lost by obtaining judgment for price

(2) The unpaid seller of goods having a lien or right of retention thereon does not lose his lien or right of retention by reason only that he has obtained judgment for the price of the goods. R.S.O. 1960, c. 358, s. 41.

Right of stoppage in transitu

42. Subject to this Act, when the buyer of goods becomes insolvent, the unpaid seller who has parted with the possession of the goods has the right of stopping them in transitu, that is to say, he may resume possession of the goods as long as they are in course of transit, and may retain them until payment or tender of the price. R.S.O. 1960, c. 358, s. 42.

Duration of transit

43.—(1) Goods shall be deemed to be in course of transit from the time they are delivered to a carrier by land or water or other bailee for the purpose of transmission to the buyer until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

Buyer obtaining delivery

(2) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination the transit is at an end.

Carrier holding goods to buyer's order

(3) If after the arrival of the goods at the appointed destination the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent, the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

Rejected goods

(4) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them, the transit shall be deemed not to be at an end even if the seller has refused to receive them back.

Ship chartered by buyer

(5) When goods are delivered to a ship chartered by the buyer, it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent to the buyer.

Wrongful refusal to deliver

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf, the transit shall be deemed to be at an end.

Where part delivery has been made

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf, the remainder of the goods may be stopped in transitu unless the part delivery has been made under such circumstances as show an agreement to give up possession of the whole of the goods. R.S.O. 1960, c. 358, s. 43.

How right may be exercised

44.—(1) The unpaid seller may exercise his right of stoppage in transitu either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are, and such notice may be given either to the person in actual possession of the goods or to his principal, and in the latter case the notice to be effectual shall be given at such time and under such circumstances that the principal by the exercise of reasonable diligence may communicate it to his servant or agent in time to prevent a delivery to the buyer.

Redelivery after notice to carrier, etc.

(2) When notice of stoppage in transitu is given by the seller to the carrier or other bailee in possession of the goods, he shall redeliver the goods to or according to the directions of the seller, and the expenses of such redelivery shall be borne by the seller. R.S.O. 1960, c. 358, s. 44.

45. Subject to this Act, the unpaid seller's right of lien or retention or stoppage in transitu is not affected by any sale of other disposition of the goods that the buyer may have made, unless the seller has assented thereto, but where a document of title to goods has been lawfully transferred to a person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration, then, if the last-mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage in transitu is defeated, and if the last-mentioned transfer was by way of pledge or other disposition for value, the unpaid seller's right of lien or retention or stoppage in transitu can only be exercised subject to the rights of the transferee. R.S.O. 1960, c. 358, s. 45.

Effect of subsale or pledge by buyer

46.—(1) Subject to this section, a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage in transitu.

Exercise of right of lien or stoppage, effect on contract

(2) Where an unpaid seller who has exercised his right of lien or retention or stoppage in transitu resells the goods, the buyer acquires a good title thereto as against the original buyer.

Title of buyer on resale

(3) Where the goods are of a perishable nature or where the unpaid seller gives notice to the buyer of his intention to resell and the buyer does not within a reasonable time pay or tender the price, the unpaid seller may resell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract.

Resale and right to damages for breach of contract

(4) Where the seller expressly reserves a right of resale in case the buyer should make default, and on the buyer making default, resells the goods, the original contract of sale is thereby rescinded, but without prejudice to any claim the seller may have for damages. R.S.O. 1960, c. 358, s. 46.

Where resale rescinds contract

PART V

ACTIONS FOR BREACH OF THE CONTRACT

47.—(1) Where, under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may maintain an action against him for the price of the goods.

Seller may maintain action for price

(2) Where under a contract of sale the price is payable on a day certain, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay the price, the seller may maintain an action for the price although the property in the goods has not

Where property in goods has not passed

passed and the goods have not been appropriated to the contract. R.S.O. 1960, c. 358, s. 47.

Action for non-acceptance

48.—(1) Where the buyer wrongfully neglects or refuses to accept and pay for the goods, the seller may maintain an action against him for damages for non-acceptance.

Measure of damages

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the buyer's breach of contract.

Difference in price

(3) Where there is an available market for the goods in question, the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted, or, if no time was fixed for acceptance, then at the time of the refusal to accept. R.S.O. 1960, c. 358, s. 48.

Buyer may maintain action for non-delivery

49.—(1) Where the seller wrongfully neglects or refuses to deliver the goods to the buyer, the buyer may maintain an action against the seller for damages for non-delivery.

Measure of damages

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract.

Difference in price

(3) Where there is an available market for the goods in question, the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered, or, if no time was fixed, then at the time of the refusal to deliver. R.S.O. 1960, c. 358, s. 49.

Specific performance

50. In an action for breach of contract to deliver specific or ascertained goods, the court may, if it thinks fit, direct that the contract be performed specifically, without giving the defendant the option of retaining the goods on payment of damages, and may impose such terms and conditions as to damages, payment of the price, and otherwise, as to the court seems just. R.S.O. 1960, c. 358, s. 50.

Breach of warranty

51.—(1) Where there is a breach of warranty by the seller, or where the buyer elects, or is compelled, to treat a breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods, but he may,

(*a*) set up against the seller the breach of warranty in diminution or extinction of the price; or

(*b*) maintain an action against the seller for damages for the breach of warranty.

(2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of warranty. Measure of damages

(3) In the case of breach of warranty of quality, such loss is *prima facie* the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty. Breach of warranty as to quality

(4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage. R.S.O. 1960, c. 358, s. 51. Right of action

52. Nothing in this Act affects the right of the buyer or the seller to recover interest or special damages in a case where by law interest or special damages may be recoverable, or to recover money paid where the consideration for the payment of it has failed. R.S.O. 1960, c. 358, s. 52. Other rights of buyer preserved

PART VI

SUPPLEMENTARY

53. Where any right, duty or liability would arise under a contract of sale by implication of law, it may be negatived or varied by express agreement or by the course of dealing between the parties, or by usage, if the usage is such as to bind both parties to the contract. R.S.O. 1960, c. 358, s. 53. Exclusion of implied laws and conditions

54. Where by this Act any reference is made to a "reasonable time", the question of what is a reasonable time is a question of fact. R.S.O. 1960, c. 358, s. 54. Reasonable time a question of fact

55. Where any right, duty or liability is declared by this Act, it may, unless otherwise provided by this Act, be enforced by action. R.S.O. 1960, c. 358, s. 55. Rights enforceable by action

56. In case of a sale by auction, Sales by auction

(*a*) where goods are put up for sale in lots, each lot is *prima facie* the subject of a separate contract of sale;

(*b*) a sale is complete when the auctioneer announces its completion by the fall of a hammer or in any other customary manner, and until such announcement is made any bidder may retract his bid;

(*c*) where a sale is not notified to be subject to a right to bid on behalf of the seller, it is not lawful for the seller to bid himself or to employ a person to bid at such sale, or for the auctioneer knowingly to take any bid from the seller

or any such person,and any sale contravening this rule may be treated as fraudulent by the buyer;

(*d*) a sale may be notified to be subject to a reserved or upset price, and a right to bid may also be reserved expressly by or on behalf of the seller;

(*e*) where a right to bid is expressly reserved, but not otherwise, the seller, or any one person on his behalf, may bid at the auction. R.S.O. 1960, c. 358, s. 56, *amended*.

Application of common law and law merchant

57.—(1) The rules of the common law, including the law merchant, except in so far as they are inconsistent with the express provisions of this Act, and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress or coercion, mistake or other invalidating cause, continue to apply to contracts for the sale of goods. R.S.O. 1960, c. 358, s. 57 (1), *amended*.

Bills of sale, etc., not affected

(2) Nothing in this Act affects enactments relating to conditional sales, bills of sale or chattel mortgages.

Act not to apply to mortgages, etc.

(3) The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale that is intended to operate by way of mortgage, pledge, charge or other security. R.S.O. 1960, c. 358, s. 57 (2, 3).

CHAPTER 422

The Sanatoria for Consumptives Act

1. In this Act, Interpretation

(*a*) "association" means any association, body or organization howsoever incorporated, authorized or empowered for the purpose of establishing, maintaining or operating a sanatorium;

(*b*) "board" means the board of trustees, directors, commission or other governing body or authority of a sanatorium;

(*c*) "Department" means the Department of Health;

(*d*) "inspector" means an officer of the Department designated under this Act as an inspector;

(*e*) "local board" means a local board of health established under *The Public Health Act*; R.S.O. 1970, c. 377

(*f*) "local municipality" means a city, town, village or township;

(*g*) "medical officer of health" means a medical officer of health appointed under *The Public Health Act* or a person having the powers of such an officer;

(*h*) "Minister" means the Minister of Health;

(*i*) "patient" means a person admitted to a sanatorium for the purpose of treatment;

(*j*) "post-sanatorium care" of a former patient includes,

(i) transportation from the sanatorium to the place of residence,

(ii) proper living accommodation, food, clothing and any other necessaries of life, and

(iii) special treatment for tuberculosis and transportation to and from any place at which such special treatment is available;

(*k*) "provincial aid" means aid granted to a sanatorium out of moneys appropriated for the purpose by the Legislature;

(*l*) "regulations" means the regulations made under this Act;

(*m*) "resident" means a person who has actually resided in a local municipality for the period of three months within the six months next prior to admission to a sanatorium;

(*n*) "sanatorium" means any sanatorium, institution, building or other premises or place, howsoever created, established or incorporated for the treatment of patients;

(*o*) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of a sanatorium;

R.S.O. 1970, c. 458

(*p*) "territorial district" means a territorial district under *The Territorial Division Act*;

(*q*) "treatment" means the stay, maintenance, observation, care, nursing and treatment of a patient who has or is suspected of having tuberculous disease;

(*r*) "unorganized territory" means that part of a territorial district that is without municipal organization. R.S.O. 1960, c. 359, s. 1.

PART I

ESTABLISHMENT, OPERATION, INSPECTION OF SANATORIA

Sanatoria aided in 1930 approved

2.—(1) The several institutions with their respective properties and appurtenances that, under *The Sanatoria for Consumptives Act*, being chapter 257 of the Revised Statutes of Ontario, 1927, received aid for the year 1930 from Ontario shall, for the purposes of this Act, be deemed to be sanatoria approved under this Act.

New sanatoria to be approved

(2) No institution, building or other premises or place shall be created, established, incorporated, operated or used as a sanatorium until it has been approved by the Lieutenant Governor in Council.

Suspension or revocation of approval

(3) Any approval given or deemed to have been given under this Act in respect of any sanatorium may be suspended by the Minister or revoked by the Lieutenant Governor in Council. R.S.O. 1960, c. 359, s. 2.

Inspectors

3. The Minister, with the approval of the Lieutenant Governor in Council, may designate one or more officers of the Department to be inspectors for the purposes of this Act and the regulations. R.S.O. 1960, c. 359, s. 3.

Powers of sanatorium

4. Every sanatorium approved or deemed to be approved under this Act may be carried on under the powers and authorities conferred by any general or special Act under which it was created, established, incorporated or empowered, but, where the provisions of any general or special Act conflict with the provisions of this Act or the regulations, the provisions of this Act or the regulations prevail. R.S.O. 1960, c. 359, s. 4.

PART II

MUNICIPAL SANATORIA

Establishment of municipal sanatorium

5. Subject to this Act, any municipal corporation, including a county or, jointly, any two or more such municipal corporations, may establish a sanatorium, and may for that purpose acquire land and erect and equip buildings thereon and do such other things as may be necessary or incidental to the establishment, completion, maintenance and operation of a sanatorium, and the carrying out of this Act and the regulations. R.S.O. 1960, c. 359, s. 5.

Provisional agreement for joint sanatorium

6. When two or more municipal corporations propose jointly to establish a sanatorium, the councils of the corporations shall provisionally agree upon the proposal. R.S.O. 1960, c. 359, s. 6.

Submission of proposals to Minister

7. Any municipal corporation or corporations that propose to establish a sanatorium shall submit the proposals to the Minister and therewith shall also submit such provisional by-laws, agreements, plans, estimates and other material and information as are required by the regulations. R.S.O. 1960, c. 359, s. 7.

Site in another municipality

8. If the site for a proposed sanatorium is situate elsewhere in Ontario than in the municipality or in one of the municipalities, the corporation of which is proposing or is a party to proposing its establishment, such corporation shall, upon submitting the proposals to the Minister, notify in writing the head of the municipality in which the site is situate of the proposals made, and the council of such municipality shall, within one month after receipt of such notice, state in writing to the Minister the objections, if any, that it has to the establishment of a sanatorium on such site, but no such objection necessarily prevents approval being given hereunder. R.S.O. 1960, c. 359, s. 8.

Approval by order in council

9. The Minister shall submit the proposals, with any report thereon that he sees fit to make, to the Lieutenant Governor in Council, and, upon approval thereof either as submitted or as modified or altered in any way by the Lieutenant Governor in Council, such approval is, subject as hereinafter provided, sufficient authority for the municipal corporation or corporations to establish a sanatorium in accordance therewith. R.S.O. 1960, c. 359, s. 9.

Procedure for establishment, by-laws, etc.

10. When by approval of the Lieutenant Governor in Council a municipal corporation is or, jointly, two or more municipal corporations are authorized to establish a sanatorium, the council or councils of such corporation or corporations, as the case may be, may, with the assent of the electors of such municipality or

municipalities qualified to vote on money by-laws, pass all by-laws necessary to establish, erect, complete and equip the sanatorium and to issue debentures to pay for the cost thereof and, where, jointly, two or more municipal corporations are establishing the sanatorium, to enter into an agreement respecting it according to form approved by the Lieutenant Governor in Council. R.S.O. 1960, c. 359, s. 10.

County sanatorium

11. Where the municipal corporation authorized by the approval of the Lieutenant Governor in Council, either alone or jointly with another municipal corporation, to establish a sanatorium is a county, it is not necessary that any by-laws passed by the council of such county, under section 10, be assented to by the electors qualified to vote on money by-laws if such by-laws are passed with the vote of two-thirds of all the members of the county council. R.S.O. 1960, c. 359, s. 11.

R.S.O. 1970, c. 284 to apply

12. Subject as otherwise herein provided, *The Municipal Act* applies to all by-laws passed and to all debentures issued by a municipal corporation under this Act. R.S.O. 1960, c. 359, s. 12.

Improvements for sanatorium

13. When it is proposed by a municipal corporation that has or by two or more municipal corporations that, jointly, have established a sanatorium, to make any extensions, additions or structural alterations or improvements to the sanatorium, or to erect any new buildings in connection therewith, the powers and proceedings with respect to such proposals and obtaining approval thereof, and to the passing of by-laws, issue of debentures and entering into of agreements, are the same as for the establishment of a sanatorium. R.S.O. 1960, c. 359, s. 13.

Board of management

14.—(1) When a municipal corporation has or, jointly, two or more municipal corporations have established a sanatorium, the management and control over it, and its erection, equipment, maintenance, operation, use and affairs generally, shall be vested in a board which, subject to subsection 2, shall be composed of not fewer than five trustees to be appointed by by-law of the establishing municipal corporation or, in case of the establishment of a sanatorium, jointly, by two or more municipal corporations, in accordance with the provisions of the agreement entered into respecting the same.

Appointment to board by Lieutenant Governor in Council

(2) Notwithstanding subsection 1, the Lieutenant Governor in Council may appoint any person to be a member of a board of any sanatorium referred to in subsection 1, and such person shall hold office during pleasure and, where any such board consists of five members at the time of such appointment, the board shall consist of six members until the death, resignation or expiration of the term of office of one of the members other than the member so appointed. R.S.O. 1960, c. 359, s. 14.

Trustees

15. The qualifications of the trustees forming the board, their term of office, which shall not exceed five years, the quorum of their meetings and the manner of appointment of successors and of filling vacancies in the office of trustees shall be provided for in such by-law or agreement, and the trustees appointed shall hold office until their successors are appointed. R.S.O. 1960, c. 359, s. 15.

Corporate body

16. The board is a corporation under such name as is designated in the approval given by the Lieutenant Governor in Council for its establishment. R.S.O. 1960, c. 359, s. 16.

Chairman

17. The board shall elect yearly one of its members to be its chairman to hold office for one year, or until his successor is appointed, and a vice-chairman may also be elected similarly. R.S.O. 1960, c. 359, s. 17.

Agreements with associations

18. With the approval of the Lieutenant Governor in Council, an association that has authority to establish, maintain and operate a sanatorium may enter into an agreement with one or more municipal corporations, including a county or counties, respecting the establishment of such sanatorium or with respect to providing in whole or in part the cost of erecting, equipping, improving, enlarging, extending or altering a sanatorium established by the association, but no by-law of a municipal corporation for the purpose of providing any such cost, by the issue of debentures or otherwise, shall be passed otherwise than in accordance with the provisions of section 10 or 11 in respect to by-laws passed thereunder. R.S.O. 1960, c. 359, s. 18.

PART III

ALL SANATORIA

Application of Part

19. This Part applies to all sanatoria whether established by municipal corporations or associations. R.S.O. 1960, c. 359, s. 19.

Powers of board

20. Subject as in this Act and the regulations provided or in any agreement entered into under this Act stipulated, it is the duty of the board of a sanatorium and it has the power to govern, manage and control its affairs, and its maintenance, operations and use, and the admission, treatment, conduct, discipline and discharge of patients therein and, for such purposes, the board may pass by-laws, rules and regulations, but no such by-law, rule or regulation has force or effect until it is approved by the Lieutenant Governor in Council. R.S.O. 1960, c. 359, s. 20.

Appointment of staff

21. Subject to the regulations, the board may appoint such superintendents, officers, staffs, employees and servants of a sanatorium as from time to time may be necessary, and fix their salaries and prescribe their powers and duties. R.S.O. 1960, c. 359, s. 21.

Powers of expropriation

R.S.O. 1970, cc. 284, 154

22. With the approval of the Lieutenant Governor in Council, the board may pass by-laws for expropriating any land adjacent to or in the vicinity of a sanatorium that is considered requisite for or advantageous to its purposes, and in that behalf may exercise the powers of expropriation conferred on a municipality under *The Municipal Act*, and subject to *The Expropriations Act*, and the superintendent in such case shall exercise the powers and perform the duties that under *The Municipal Act* are to be exercised and performed by the clerk of the municipality, but the board of a sanatorium that has been established by a municipal corporation or corporations shall not exercise any such power of expropriation without the consent first obtained of the council or councils of such corporation or corporations. R.S.O. 1960, c. 359, s. 22, *amended*.

Exemption from taxation

23. The real property acquired and used for the purpose of and in connection with a sanatorium is exempt from all municipal or other taxation, including taxation for school purposes, except and excluding any municipal tax or rate imposed in respect of any public utility supplied to a sanatorium. R.S.O. 1960, c. 359, s. 23.

Sale, etc., to be approved

24. No part of any property acquired or used for the purposes of a sanatorium shall be sold, leased, mortgaged or otherwise disposed of without the approval of the Lieutenant Governor in Council. R.S.O. 1960, c. 359, s. 24.

Protection from adverse expropriation

25. No part of any property acquired or used for the purposes of a sanatorium shall be expropriated by any corporation or person having powers of expropriation under any Act without the approval of the Lieutenant Governor in Council. R.S.O. 1960, c. 359, s. 25.

Saving as to highway widening

26. Nothing in sections 24 and 25 applies to or prevents the sale, disposition or expropriation of any part of the property acquired or used for the purposes of a sanatorium if it is required in the widening of any highway and if the Minister has first approved thereof. R.S.O. 1960, c. 359, s. 26.

Donations

27. The board may accept from any person donations of property, real or personal, by will or otherwise, for the endowment, use or benefit of a sanatorium and, subject to the terms of

the donation, may apply the same for such purposes. R.S.O. 1960, c. 359, s. 27.

Approval for closing sanatorium

28. No sanatorium that has been approved and established may be closed permanently without the approval of the Lieutenant Governor in Council and, when a sanatorium is closed or proposed to be closed permanently, the Lieutenant Governor in Council may make such provision for the sale or other disposition of the sanatorium and all its properties and assets and for the application of any proceeds of the sale or disposition and otherwise in every respect as he considers proper. R.S.O. 1960, c. 359, s. 28.

Medical students' clinics

29. Subject to the provisions of any existing agreement relating thereto, every sanatorium receiving provincial aid shall provide such reasonable facilities for giving instruction to medical students of any university as are required by the regulations. R.S.O. 1960, c. 359, s. 29.

Sanatorium to admit patients

30. Except as otherwise provided in this Act or the regulations, no sanatorium receiving provincial aid shall refuse to admit as a patient any person who is in need of treatment. R.S.O. 1960, c. 359, s. 30.

Admissions to association sanatorium

31. Except as otherwise provided in this Act or in the agreement, no sanatorium established by an association that has entered into an agreement with a municipal corporation under this Act shall refuse to admit as a patient any indigent person or dependant of an indigent person resident in such municipality and requiring treatment. R.S.O. 1960, c. 359, s. 31.

Refusal of communicable disease cases R.S.O. 1970, c. 377

32. Nothing in this Act requires any sanatorium to admit or retain as a patient any person suffering from a communicable disease that under *The Public Health Act* or regulations made thereunder requires quarantine and placarding. R.S.O. 1960, c. 359, s. 32.

Refusal of non-residents

33. Nothing in this Act requires any sanatorium to admit as a patient any person who is not a resident or a dependant of a resident in Ontario, unless by refusal of admission life would thereby be endangered. R.S.O. 1960, c. 359, s. 33.

PART IV

MUNICIPAL LIABILITY

Notice to municipality

34.—(1) Upon admission to a sanatorium of a patient, the superintendent shall, by registered mail, notify the clerk of the local municipality in which the patient is or is reported to be a

resident of such admission, giving such particulars as are available to enable the clerk to identify the patient.

Reply

(2) Within thirty days after the mailing of such notice, the clerk shall, by registered mail, send a reply to the superintendent from whom the notice was received stating whether the patient is a resident of the local municipality and, if the clerk states that the patient is not a resident, he shall furnish the information that he has obtained relating to the residence of the patient.

Failure of clerk to reply

(3) If the clerk fails or neglects to comply with subsection 2, the patient, for the purposes of this Act, shall be deemed to be a resident of the local municipality for which the clerk is appointed. R.S.O. 1960, c. 359, s. 34.

Superintendent may request information

35.—(1) When the superintendent requires information regarding the ability of a patient to pay toward his maintenance in a sanatorium, the superintendent may request, by registered mail, such information from the clerk of the local municipality in which the patient was resident at the time of admission to the sanatorium.

Penalty for failure to reply

(2) Unless the clerk of the local municipality, within thirty days of the mailing to him of any such notice as mentioned in subsection 1, has replied to the superintendent supplying the information referred to in subsection 1, or giving reasons why the information cannot be obtained, the local municipality shall pay to the sanatorium the charges for the treatment of the patient in the sanatorium at the rate set for provincial aid in the regulations, commencing thirty days after the mailing to the clerk of the notice and continuing until the clerk has complied with this section. R.S.O. 1960, c. 359, s. 35.

Cost of transportation to sanatorium

36.—(1) The local municipality in which an indigent person is living at the time he requires admission to a sanatorium shall pay the costs of transporting him to the sanatorium and if after admission to a sanatorium his residence is determined to be any other local municipality, the local municipality that has paid the costs of his transportation to a sanatorium may recover the expenses so incurred from the local municipality where he was resident at the time of his admission to the sanatorium or, if any such person was not resident in any local municipality, the local municipality that has paid the costs may recover such costs from the Department.

Transportation to another sanatorium

(2) The local municipality in which an indigent patient was resident at the time of his admission to a sanatorium shall pay the costs of his transportation to and from another sanatorium or to and from any public hospital or other public institution if such transfer has been directed by the superintendent of the sanatorium or by an inspector.

Recovery by sanatorium

(3) Whenever the transfer of an indigent patient has been directed by the superintendent of a sanatorium or by an inspector to and from any of the places mentioned in subsection 2, the sanatorium may pay the costs of transportation and may recover such costs from the local municipality in which the patient was resident at the time of his admission to a sanatorium. R.S.O. 1960, c. 359, s. 36.

Notice that patient recovered

37.—(1) The superintendent of a sanatorium shall, and an inspector may, give notice in writing to the local board of any local municipality that a patient who was resident in such municipality at the time of admission to the sanatorium has recovered to such an extent that he may receive care or treatment outside the sanatorium.

Responsibility of local board

(2) Upon receiving such notice, the local board shall furnish to or for a patient who is indigent the expenses of post-sanatorium care or such part thereof as he is unable to furnish himself.

Failure of local board to comply with provisions of subs. 2

(3) In the event that the local board fails or neglects to comply with subsection 2 within thirty days after such notice has been sent to the local board, the local municipality in which the local board has jurisdiction shall pay to the sanatorium the charges for the treatment of such patient in the sanatorium at the rate set for provincial aid in the regulations commencing thirty days after the notice has been sent to the local board.

Return of patient to sanatorium

(4) In the event that the local board fails or neglects to comply with subsection 2, the Minister may direct that the patient be returned to a sanatorium, and the local municipality in which the patient was resident at the time of his last admission to a sanatorium shall pay the charges for his transportation together with the charges for his treatment at the rate set for provincial aid in the regulations.

Where patient proceeds to other municipality

(5) If a patient at any time after his discharge from a sanatorium goes to a local municipality other than that in which he was resident at the time of his admission to a sanatorium, the first-named local municipality shall provide for the patient the things mentioned in subsection 2 if the patient is indigent but may recover any expenses so incurred from the local municipality in which the patient was resident at the time of his admission to a sanatorium.

Recovery from county

(6) If a local municipality is part of a county for municipal purposes, such local municipality is entitled to recover from the county one-half of any money expended by the local board under subsection 2 or 5. R.S.O. 1960, c. 359, s. 37 (1-6).

Provincial contribution

(7) The Minister of Social and Family Services may reimburse a local municipality for any money expended by its local board under subsection 2 or 5 in such amounts and under such condi-

R.S.O. 1970, c. 192

tions as are prescribed in the regulations under *The General Welfare Assistance Act*. R.S.O. 1960, c. 359, s. 37 (7), *amended*.

Burial expenses, by local municipality

38.—(1) In the event of the death in a sanatorium of a patient who is an indigent person, the local municipality in which he was resident at the time of admission shall pay to the sanatorium any expenses of burial that it may incur, not less than,

(*a*) $125 for the burial;

(*b*) the actual cost of opening and closing the grave; and

(*c*) a fee of $10 for a religious service performed in connection with the burial.

by Minister

(2) Where the deceased person referred to in subsection 1 was not resident in a local municipality, the Minister may pay the burial expenses in accordance with subsection 1. R.S.O. 1960, c. 359, s. 38.

Statements of account to be rendered

39.—(1) When under this Act the burial expenses of a deceased patient are payable by a local municipality, the sanatorium to which he was admitted shall render to the clerk of the local municipality a statement of account of any such expenses with full particulars thereof and if the amount of any such account is not paid within a reasonable time after the same has been rendered it may be recovered as a debt in any court of competent jurisdiction.

Right of recovery

(2) Upon payment by a local municipality of any expenses of burial of a deceased patient, the local municipality may recover one-half of such expenses from the county if the local municipality is part of the county for municipal purposes. R.S.O. 1960, c. 359, s. 39.

Municipal recourse against estate of patient

40. Upon payment by a local municipality or a county of any expenses of burial of a deceased patient, such local municipality or county may recover from his estate or personal representatives, or, in the case of a dependant, from any person liable in law in respect of such dependant, the amount of the payment so made, and it may be recovered as a debt in any court of competent jurisdiction. R.S.O. 1960, c. 359, s. 40.

Municipal recourse against proper municipality

41. Upon payment by a local municipality or a county of any expenses of burial of a deceased patient by reason of him having been assumed to be resident in such local municipality and it being ascertained that he was not resident therein, but at the time of admission to the sanatorium was a resident in another local municipality in Ontario, the local municipality or county that made the payment may recover the amount thereof as a debt from the local municipality in which he was resident and, upon

payment by that local municipality, it is entitled to exercise the rights of recovery conferred by section 40. R.S.O. 1960, c. 359, s. 41.

42. For the purpose of this Act, no patient shall be deemed to be resident in a local municipality, Cases where residence not presumed

(*a*) by reason of having gone to the municipality for the purpose of seeking medical advice or treatment or seeking admission or treatment in a sanatorium in such municipality, but in such cases he shall for the purpose of this Act be deemed to be resident in that municipality in which he was resident at the time of going to the first-named municipality for the purpose of seeking such advice, treatment or admission; or

(*b*) if the municipality is in a territorial district, and he having or suspected of having tuberculous disease has gone to such municipality principally for the purpose of health and within one year after going to such municipality is admitted as a patient in a sanatorium, but in such cases he shall for the purposes of this Act be deemed to be resident in that municipality in which he was resident at the time of going to a municipality in a territorial district; or

(*c*) if he has been living in the municipality by reason of being a pupil in a school, college, university, training school for nurses established under *The Nurses Act* or other seminary of learning therein and at the time he became such a pupil was not resident therein, but in such cases he shall for the purposes of this Act be deemed to be resident in that municipality in which he was resident at the time he became such a pupil; or R.S.O. 1970, c. 301

(*d*) by reason of having been a patient or an inmate of a hospital, sanatorium, home for the aged, orphanage, children's shelter or child welfare institution, correctional institution, prison or other public institution in the municipality and otherwise was not resident therein, but in such cases he shall for the purposes of this Act be deemed to be resident in that municipality in which he was resident at the time he became such a patient or inmate; or

(*e*) if he has been living in the municipality by reason of being engaged on active service as a member of the Canadian Armed Forces, but in such cases he shall for the purposes of this Act be deemed to be resident in that municipality in which he was resident at the time of enlistment for such service. R.S.O. 1960, c. 359, s. 42, *amended*.

Residence of former patients

43. Where a former patient after his discharge from a sanatorium,

(*a*) goes to a local municipality other than the local municipality in which he was resident at the date of his admission to the sanatorium;

(*b*) receives post-sanatorium care under section 37 or otherwise under this Act while living in the first-mentioned municipality; and

(*c*) is not otherwise resident in the first-mentioned local municipality,

he shall not, for the purposes of this Act, be deemed to be resident in the local municipality in which he has been living since his discharge from the sanatorium but shall be deemed resident in the local municipality in which he was resident at the date of his first admission to a sanatorium. R.S.O. 1960, c. 359, s. 43.

PART V

PROVINCIAL AID

Provincial aid

44. The Minister may, out of the moneys that are appropriated by the Legislature for the purpose,

(*a*) pay provincial aid to any sanatorium; and

(*b*) make payments for the treatment outside a sanatorium of any person suffering from tuberculosis and for the post-sanatorium care of any former patient,

in such amounts, in such manner and at such times as are prescribed by the regulations. R.S.O. 1960, c. 359, s. 44.

PART VI

GENERAL

Medical officer may require examination

45.—(1) A medical officer of health may, with the approval of an inspector, require any person who is resident in the municipality or district for which he is medical officer of health and who is suspected by him to be suffering from tuberculosis or who has been in contact with any person suffering from tuberculosis or who has been a patient in a sanatorium, to submit to such examination for tuberculosis as he may direct.

Notice

(2) In requiring a person to submit to an examination under this section, the medical officer of health shall serve such person or, in the case of an infant, the parent or guardian of the infant, with a notice in writing signed by him and by an inspector, specifying the nature, time and place of the examination.

(3) Any person served with a notice who fails to carry out an order or direction contained therein is guilty of an offence and on summary conviction may be committed to a sanatorium for a period of not more than fourteen days to receive the examination considered necessary by the superintendent of the sanatorium to determine if the person is suffering from tuberculosis in an infectious state. Offence

(4) Any expenses incurred by a medical officer of health under this section shall be paid by the local municipality for which he is appointed and, in the case of a medical officer of health appointed to act in unorganized territory, such expenses shall be paid by the Department. R.S.O. 1960, c. 359, s. 45. Expenses

46.—(1) Any medical officer of health or legally qualified medical practitioner may, with the approval in writing of the Minister, make a complaint or lay an information in writing and under oath before a justice of the peace charging that the circumstances set out in clauses *a*, *b* and *c* of subsection 5 exist with regard to any person named in the information. Information

(2) Upon receiving any such information, the justice of the peace shall hear and consider the allegations of the informant and, if he considers it desirable or necessary, the evidence of any witness or witnesses, and, if he is of the opinion that a case for so doing is made out, he shall issue a summons directed to the person complained of, requiring him to appear before a provincial judge at a time and place named therein. Issue of summons

(3) Where a person to whom a summons is directed does not appear at the time and place named therein or where it appears that a summons cannot be served, the provincial judge may issue a warrant directing that the person named in the summons be brought before him. Issue of warrant

(4) Where a person appears or is brought before a provincial judge under this section, the judge shall inquire into the truth of the matters charged in the information, and for such purpose shall proceed in the manner prescribed by *The Summary Convictions Act* and has all the powers of a provincial judge holding a hearing under that Act. Provincial judge's inquiry

R.S.O. 1970, c. 450

(5) Where a provincial judge finds that any such person, Order for detention

(*a*) is suffering from pulmonary tuberculosis in an infectious state;

(*b*) is unwilling or unable to conduct himself in such a manner as not to expose members of his family or other persons to danger of infection; and

(*c*) refuses to be admitted or to remain in a sanatorium or has left a sanatorium against the advice of the superintendent thereof,

he shall order that such person be admitted to and detained in a sanatorium or in such other place as is set aside with the approval of the Minister for the care of tuberculous persons for such period not exceeding one year as the judge considers necessary.

Fees of medical practitioner retained

(6) Any person who appears or is summoned to appear before a provincial judge under this section may retain a legally qualified medical practitioner to give evidence on his behalf, and the fees of the medical practitioner shall be deemed to be part of the expenses of the proceedings and payable as provided by subsection 3 of section 51.

Laboratory certificate

(7) In any inquiry under this section, upon production of a certificate signed or purporting to be signed by the director of a laboratory approved by the Minister as to the presence of tubercle bacilli in the sputum of any person, such certificate is *prima facie* evidence of the facts stated therein and of the authority of the person giving such certificate without any proof of appointment or signature.

Detention pending inquiry or removal

(8) Any person detained pending a hearing under this section or pending his removal to a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons shall be detained in a sanatorium or such other safe and comfortable place as a justice of the peace or provincial judge directs.

Transfer of patients

(9) The Minister may direct the transfer of a person detained under this section to any sanatorium, hospital or any other place when he considers such transfer is necessary for the welfare of the patient.

Extention of detention

(10) Any person detained under this section may, with the approval in writing of the Minister, be brought before a provincial judge at any time during the last thirty days of the period for which he is so detained, and, if the judge finds that he is still suffering from pulmonary tuberculosis in an infectious state, the judge may order that he be further detained in a sanatorium or such other place as is set aside with the approval of the Minister for the care of tuberculous persons for such period not exceeding one year as the judge considers necessary. R.S.O. 1960, c. 359, s. 46, *amended*.

Examination by physician in charge

47.—(1) Where a physician having medical charge of a correctional institution or training school suspects that a person under his charge is suffering from tuberculosis, he may or, if directed by the proper medical officer of health, he shall cause the person to undergo the necessary examination to ascertain if the person has tuberculosis or to ascertain the extent of the disease, and, if the examination discloses that the person has tuberculosis, the physician shall report the facts to the proper medical officer of health who may proceed as provided by section 49.

(2) Where an examination has not been made under this section, every physician having medical charge of a correctional institution or training school shall report immediately to the medical officer of health the name and place of confinement of every person under his charge whom he suspects is suffering from tuberculosis. Duty of physician in charge

(3) A copy of every report under this section shall be sent by the physician making the report to the Minister and to the proper medical officer of health for the municipality in which the person formerly resided before admission to an institution mentioned in this section. R.S.O. 1960, c. 359, s. 47. Duplicate report

48. Where a medical officer of health believes that a person under arrest or in custody, whether awaiting trial for an offence under or contravention of any statute of Canada or of Ontario or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction or any such offence or contravention, has been or may be suffering from tuberculosis, he may cause the person to undergo the examination necessary to ascertain if the person is suffering from tuberculosis or to ascertain the extent of the disease, and may direct that the person be transferred to and detained in a sanatorium until the result of the examination is known. R.S.O. 1960, c. 359, s. 48. Examination of person under arrest or in custody

49. Where a person under arrest or in custody, whether awaiting trial for an offence under or contravention of any statute of Canada or of Ontario or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction of any such offence or contravention, is found to have tuberculosis, the medical officer of health of the municipality where the person is in custody, or the Minister, may by order in writing direct that the person be transferred to a sanatorium and undergo treatment therein and that he be detained in custody in the sanatorium until the tuberculosis is no longer infectious or until he has received a degree of treatment considered adequate by the medical superintendent and the Minister notwithstanding that he may be otherwise entitled to be released, and any order made under this section is sufficient warrant to the person to whom the order is addressed to carry out the terms thereof. R.S.O. 1960, c. 359, s. 49. Treatment

50. Any patient in a sanatorium who is unwilling or unable to conduct himself in such a manner as not to expose other patients or other persons to danger of infection or whose conduct is detrimental to the recovery of other patients may, upon the complaint of the superintendent or a legally qualified medical practitioner on the staff of the sanatorium who is designated by him, be apprehended by any peace officer and brought before a Procedure for segregation of recalcitrant patients

provincial judge who may, if he finds any such condition to exist, order that the patient be segregated from the other patients in a separate part of the sanatorium or any other place and there detained for a period of not more than six months. R.S.O. 1960, c. 359, s. 50, *amended*.

Authority to apprehend, etc.

51.—(1) The superintendent, every member of the medical staff and every nurse and attendant employed in a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons and every medical officer of health and peace officer has authority to,

(*a*) execute any warrant and enforce any order of a provincial judge issued or made under section 46 or 50;

(*b*) bring any person before a provincial judge under subsection 10 of section 46 or section 50; and

(*c*) apprehend any person who has left a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous patients in contravention of any order made under section 46, 47, 48, 49 or 50.

Discharge by Minister

(2) Where the Minister is of the opinion that a person detained under section 46 or 50 in a sanatorium or other place set aside with the approval of the Minister for the care of tuberculous persons is no longer suffering from pulmonary tuberculosis in an infectious state, he may direct the discharge of such person.

Expenses of proceedings

(3) The expenses of all proceedings taken under section 46 or 50 shall be paid out of such moneys as are appropriated for the purposes of this Act by the Legislature. R.S.O. 1960, c. 359, s. 51, *amended*.

Transfer to a public hospital

R.S.O. 1970, c. 378

52. The superintendent of a sanatorium has authority to direct the transfer of any patient in the sanatorium to a hospital under *The Public Hospitals Act* for the purpose of having performed upon such patient any surgical operation for any condition other than tuberculosis, and in any such case the charges for the treatment in the public hospital of any such patient who is indigent shall be paid for in the same manner as charges for indigent patients are paid under *The Public Hospitals Act*. R.S.O. 1960, c. 359, s. 52,

Limitation of action

53. Any action against a sanatorium or any nurse or person employed therein for damages for injury caused by negligence in the admission, care, treatment or discharge of a patient shall be brought within six months after the patient is discharged from or ceases to receive treatment at the sanatorium and not afterwards. R.S.O. 1960, c. 359, s. 53.

54.—(1) The Lieutenant Governor in Council may make such regulations with respect to sanatoria as are considered necessary for, Regulations for sanatoria

(*a*) their creation, establishment, construction, alteration, equipment, maintenance and repair;

(*b*) their classification, grades and standards;

(*c*) their inspection, control, government, management, conduct, operation and use, including the appointment of one member of the board;

(*d*) their inspectors, superintendents, staffs, officers, servants and employees and the powers and duties thereof;

(*e*) the admission, treatment, conduct and discharge of patients;

(*f*) prescribing the forms relating to patients and their admission to, maintenance in, transfer, release and discharge from sanatoria, and all other forms required for carrying out this Act and the regulations;

(*g*) the classification, length of stay, rates and charges of and for patients;

(*h*) the records, books, accounting system, reports and returns to be made and kept by sanatoria;

(*i*) the distribution, payment, withholding and restoration of and other matters affecting provincial aid;

(*j*) all matters affecting sanatoria,

and may make regulations providing payment for the treatment outside sanatoria of persons suffering from tuberculosis and the post-sanatorium care of former patients.

(2) The Minister may from time to time declare all or any of the regulations not to be in force with respect to all sanatoria or any specified sanatorium or sanatoria for such time or times as he considers expedient. R.S.O. 1960, c. 359, s. 54. Enforcement of regulations

(3) The Lieutenant Governor in Council may make regulations authorizing the Minister to establish, maintain and operate facilities for the prevention and treatment of tuberculous disease and governing their establishment, operation and use. 1961-62, c. 129, s. 1. Regulations for facilities established by Minister

55. Any person who contravenes or is a party to the contravention, directly or indirectly, of any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than $5 and not more than $500. R.S.O. 1960, c. 359, s. 55. Offence

CHAPTER 423

The School Trust Conveyances Act

Conveyance of property for school sites to trustees

1. Where persons, residing in Ontario, interested in any school established in any city, town, village or township therein whether as parents of children frequenting such schools or as contributors to the same, or both, have occasion or are desirous to take a conveyance of real property for the use of such schools, such persons may elect from among themselves, and appoint not fewer than five and not more than seven trustees, to whom and to whose successors, to be appointed in the manner specified in the deed of conveyance, the real property requisite for the school may be conveyed. R.S.O. 1960, c. 360, s. 1.

Powers of trustees to hold

2.—(1) The trustees so appointed and their successors in perpetual succession, by the name expressed in the deed, may take, hold and possess the real property so conveyed, and bring and maintain any action for the protection thereof, and of their right thereto, but there shall not be so held in trust more than ten acres of land at any time for any one school.

Application of section

(2) This section does not extend to public schools. R.S.O. 1960, c. 360, s. 2.

Registration of deed

3. The trustees shall, within twelve months after the execution of any such deed, cause the deed to be registered in the registry office of the registry division in which the land lies. R.S.O. 1960, c. 360, s. 3.

CHAPTER 424

The Schools Administration Act

INTERPRETATION

Interpretation, in this Act

1.—(1) In this Act, "board" means a public school board, separate school board, secondary school board or board of education. R.S.O. 1960, c. 361, s. 1 (1); 1965, c. 118, s. 1; 1968, c. 121, s. 1 (1), *amended*.

in school Acts R.S.O. 1970, cc. 111, 385, 430, 425

(2) In this Act and in *The Department of Education Act*, *The Public Schools Act*, *The Separate Schools Act* and *The Secondary Schools and Boards of Education Act* and the regulations under any of such Acts, unless otherwise provided in the Act or regulations,

1. "adjoining" means touching at any point.

2. "board of education" includes a divisional board of education;

3. "capital fund" means a fund acquired from the proceeds of the sale of a debenture, from a capital loan or from a loan pending the sale of a debenture;

4. "cost of operation" means the total of the current expenditure and debt charges paid in the year by a board or on its behalf;

5. "county judge" or "judge" means the judge of the county or district court of the county or district in which the board concerned has jurisdiction and, where the board has jurisdiction in two or more counties or districts, means the judge of the county or district court of the county or district in which the assessment of real property liable to rates for the purposes of the board is the greatest according to the last revised assessment rolls;

6. "current expenditure" means an expenditure for maintenance or a permanent improvement from funds other than those arising from the sale of a debenture, from a capital loan or from a loan pending the sale of a debenture;

7. "current revenue" means all amounts earned by the board, together with the amounts to which it becomes entitled, other than by borrowing, that may be used to meet its expenditures;

8. "debt charge" means the amount of money necessary annually to pay the interest on all debt, the principal of long-term debt not payable from a sinking fund, and to provide a fund for the redemption of debentures payable from a sinking fund;

9. "Department" means the Department of Education;

10. "elementary school" means a public or separate school;

11. "guardian" means a person who has been appointed by order of a court as the legal guardian of a child in place of a parent;

12. "itinerant teacher" means a teacher employed on a part-time basis by one board or more to teach one subject and who is normally required to travel from one school to another in the performance of his duties;

13. "maintenance expenditure" means a current expenditure, not including an expenditure for a permanent improvement or a debt charge;

14. "Minister" means the Minister of Education;

15. "municipality" means a city, town, village or township, but does not include a county;

16. "occasional teacher" means a teacher employed to teach as a substitute for a permanent, probationary or temporary teacher;

17. "perfect aggregate attendance" for a calendar year means the number of pupil-days obtained by adding,

    i. the product of,

        a. the number of teaching days in the calendar year, and

        b. the sum of the number of pupils registered for full-day attendance, and one-half of the number of pupils registered for half-day attendance, at the school during the calendar year, and

    ii. the sum of the products of,

        a. the number of pupils enrolled in each summer-

school course or each evening course of study operated by the board, and

b. one-fifth of the number of hours in the length of such summer-school course or such evening course of study,

and subtracting therefrom,

iii. the number of full pupil-days of non-attendance or the equivalent of full pupil-days of non-attendance (a full pupil-day being two days of non-attendance in the case of a pupil registered for half-day attendance, and five hours of non-attendance in the case of a pupil registered in a summer-school course or an evening course of study) caused by,

a. deaths,

b. late registrations,

c. termination of registrations,

d. expulsions, and

e. exclusions;

18. "permanent improvement" includes,

i. the acquisition of a school site and an addition or an improvement to a school site,

ii. the acquisition or erection of a building used for instructional purposes and any additon, alteration or improvement thereto,

iii. the acquisition or erection of an administration office, a residence for teachers or caretakers and a storage building for equipment and supplies, and any addition, alteration or improvement thereto,

iv. the acquisition of furniture, furnishings, library books, instructional equipment and apparatus, and equipment required for maintenance of the property,

v. the acquisition of a bus, or other vehicle, used for the transportation of pupils,

vi. the obtaining of a water supply on the school property or conveyed from outside the school property,

vii. initial payments or contributions for past service pensions to a pension plan for officers and other employees of the board;

19. "permanent teacher" means a teacher employed on a continuing basis, but does not include a temporary teacher or an occasional teacher;

20. "population" of a municipality or a portion thereof means the population determined by referecne to the last municipal census of the municipality, less the number of inmates in public institutions in the municipality or the portion thereof, as certified by the clerk of the municipality;

21. "prescribed" means prescribed by the regulations;

22. "probationary teacher" means a teacher employed for a probationary period,

    i. of not more than two years for a teacher with less than three years experience before the commencement of the contract, or

    ii. of not more than one year for a teacher with three or more years experience before the commencement of the contract,

    leading to an appointment as a permanent teacher if his services are satisfactory to the board, but does not include a temporary teacher or an occasional teacher;

23. "provincial supervisory officer" means a teacher employed as a supervisory officer by the Province.

R.S.O. 1970, c. 111

24. "regulations" means the regulations made under *The Department of Education Act*;

R.S.O. 1970, c. 284

25. "reserve fund" means a reserve fund established under section 308 of *The Municipal Act* or paragraph 17 of section 34 of this Act;

26. "rural school section" means a school section that comprises only territory without municipal organization;

27. "school division" means the area in which a divisional board of education has jurisdiction;

28. "school section" means a locality for which a public school board or board of education has been or is to be established and that comprises part or all of one or more townships or of one or more urban municipalities or of territory without municipal organization or any combination of such areas;

29. "school site" means any land or building required for a schoolhouse, school playground, school garden, teacher's residence, caretaker's residence, drill hall, gymnasium, offices, parking areas, offices of a board or for any other school purposes;

30. "secondary school" means a school under the jurisdiction of a secondary school board;

31. "secondary school district" means the area in which a secondary school board has jurisdiction;

32. "secretary" and "treasurer" include a secretary-treasurer;

33. "separated town" means a town separated for municipal purposes from the county in which it is situated;

34. "supervisory officer" means a teacher employed as a supervisory officer by the Province or a board and includes a director of education and a superintendent of separate schools;

35. "teacher" means a person holding a legal certificate of qualification;

36. "temporary teacher" means a person employed to teach under the authority of a letter of permission;

37. "township" includes union of townships;

38. "urban municipality" means a city, town or village;

39. "urban school section" means a township school area or a school section that includes an urban municipality. R.S.O. 1960, c. 361, s. 1 (2); 1961-62, c. 130, s. 1; 1965, c. 118, s. 1; 1966, c. 140, s. 1; 1967, c. 90, s. 1; 1968, c. 121, s. 1; 1968-69, c. 114, s. 1, *amended*.

PART I

SCHOOL TERMS AND COMPULSORY ATTENDANCE

Interpretation

2. In this Part, "guardian", in additon to having the meaning ascribed in law, includes any person who has received into his home another person's child who is of compulsory school age and is resident with him or in his care or legal custody. R.S.O. 1960, c. 361, s. 2.

School year

3.—(1) The school year for elementary and secondary schools consists of three terms.

First term

(2) The first or fall term commences on the day following Labour Day and ends on the 22nd day of December, but, when

the 22nd day of December is a Monday, the first term ends on the preceding Friday.

Second term

(3) The second or winter term commences on the 3rd day of January and ends on the Friday preceding the 21st day of March, but, when the 3rd day of January is a Friday, the second term commences on the following Monday.

Third term

(4) The third or spring term commences on the second Monday following the end of the second term and ends on the 30th day of June, but, when the 30th day of June is a Monday or Tuesday, the third term ends on the preceding Friday. 1966, c. 140, s. 2, *part*.

School holidays

4. The following days are school holidays:

1. Every Saturday and Sunday.
2. Every day proclaimed a public holiday by the authorities of the muncipality in which the school is situated.
3. Every day upon which the school is closed under *The Emergency Measures Act*, *The Public Health Act* or *The Department of Education Act* or the regulations.

R.S.O. 1970, cc. 145, 377, 111

4. A day approved by the appropriate supervisory officer for a teachers' institute or conference.
5. A day appointed by the Governor General or the Lieutenant Governor as a public holiday or for thanksgiving.
6. The birthday of the reigning sovereign or the day fixed by proclamation of the Governor General for the celebration of the birthday of the reigning sovereign.
7. Good Friday, Easter Monday, Victoria Day and Remembrance Day.
8. Where under section 5 the school is open during July and August, Dominion Day and Labour Day. 1966, c. 140, s. 2, *part*.

Rural areas

5.—(1) With the approval of the appropriate provincial supervisory officer, a rural elementary school board may substitute holidays in some other part of the year for part of the time allowed for between the second and third terms and for summer holidays to suit the convenience of pupils and teachers, but the same number of holidays shall be allowed in each year. R.S.O. 1960, c. 361, s. 5 (1); 1966, c. 140, s. 3.

School terms in districts

(2) In a territorial district, the appropriate supervisory officer, subject to an appeal to the Minister, may determine the length of time, which shall not be less than six months, during which an

elementary school shall be kept open in each year, and the board of the school concerned shall keep the school open during the whole of the time so determined. R.S.O. 1960, c. 361, s. 5 (2).

Compulsory attendance

6.—(1) Unless excused under this section,

(*a*) every child who attains the age of six years on or before the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in that year until the last school day in June in the year in which he attains the age of sixteen years; and

(*b*) every child who attains the age of six years after the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in the next succeeding year until the last school day in June in the year in which he attains the age of sixteen years. R.S.O. 1960, c. 361, s. 6 (1).

When attendance excused

(2) A child is excused from attendance at school,

(*a*) if, in the opinion of the Minister, he is receiving satisfactory instruction at home or elsewhere;

(*b*) if he is unable to attend school by reason of sickness or other unavoidable cause;

(*c*) if transportation is not provided by a board for the child and there is no school that he has a right to attend situated,

(i) within one mile from his residence measured by the nearest highway if he has not attained the age of seven years on or before the first school day in September in the year in question, or

(ii) within two miles from his residence measured by the nearest highway if he has attained the age of seven years but not the age of ten years on or before the first school day in September in the year in question, or

(iii) within three miles from his residence measured by the nearest highway if he has attained the age of ten years on or before the first school day in September in the year in question;

(*d*) if he has obtained a secondary school graduation diploma or has completed a course that gives him equivalent standing;

(*e*) if he is absent from school for the purpose of receiving instruction in music and the period of absence does not exceed one-half day in any week;

(*f*) if he is excluded from attendance at school under any Act or under the regulations;

(*g*) if he is absent on a day regarded as a holy day by the church or religious denomination to which he belongs; or

(*h*) if he is absent temporarily as authorized under the regulations. R.S.O. 1960, c. 361, s. 6 (2); 1960-61, c. 92, s. 1; 1968, c. 121, s. 2.

Blind or deaf children

(3) The fact that a child is blind or deaf is not an unavoidable cause under clause *b* of subsection 2 if the child is eligible for admission to the Ontario School for the Blind or an Ontario School for the Deaf.

Child under compulsory age

(4) Where a child under compulsory school age has been enrolled as a pupil in an elementary school, this section applies during the school term for which the child is enrolled as if he were of compulsory school age.

Duty of parent, etc.

(5) The parent or guardian of a child who is required to attend school under this section shall cause the child to attend school as required by this section.

Separate school supporters

(6) Nothing in this section requires the child of a Roman Catholic separate school supporter to attend a public school or requires the child of a public school supporter to attend a Roman Catholic separate school. R.S.O. 1960, c. 361, s. 6 (3-6).

Provincial school attendance counsellor

7.—(1) The Lieutenant Governor in Council may appoint an officer, to be known as the provincial school attendance counsellor, who shall, under the direction of the Minister and subject to the regulations, superintend and direct the enforcement of compulsory school attendance. R.S.O. 1960, c. 361, s. 7 (1); 1967, c. 90, s. 2 (1).

Inquiry, by Minister

(2) Where a child or his parent or guardian considers that the child is excused from attendance at school under clause *a* of subsection 2 of section 6, the Minister may inquire as to the instruction being given to the child and as to the general educational proficiency of the child and the other circumstances of the case, and may by order in writing signed by him determine whether or not the child is receiving satisfactory instruction and, if he considers that the child is not receiving satisfactory instruction, he may by his order direct that the child shall attend school. R.S.O. 1960, c. 361, s. 7 (2).

by provincial counsellor

(3) Where a child or his parent or guardian considers that the child is excused from attendance at school under any one of clauses *b* to *h* of subsection 2 of section 6, the provincial school attendance counsellor may inquire as to the reason or excuse for non-attendance, and as to the general educational proficiency of the child and the other circumstances of the case, and may by order in writing signed by him determine whether or not the child

is excused under the clause and, if he considers that there is no valid reason why the child should not attend school, he may by his order direct that the child shall attend school. R.S.O. 1960, c. 361, s. 7 (3); 1967, c. 90, s. 2 (2).

Powers of provincial counsellor

(4) The provincial school attendance counsellor has all the powers of a school attendance counsellor and may exercise such powers anywhere in Ontario. R.S.O. 1960, c. 361, s. 7 (4); 1967, c. 90, s. 2 (3).

Appointment of school attendance counsellors

8.—(1) Every board shall appoint one or more school attendance counsellors.

Idem

(2) Two or more boards may appoint the same school attendance counsellor or counsellors.

Vacancies

(3) Where the office of a school attendance counsellor becomes vacant, it shall be filled forthwith by the board.

Notice of appointment

(4) Notice of the appointment of a school attendance counsellor shall be given in writing by the board to the provincial school attendance counsellor and to the supervisory officers concerned. 1967, c. 90, s. 3, *part, amended.*

Jurisdiction and responsibility of counsellors, of public schools

9.—(1) A school attendance counsellor appointed by a public school board has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of all children who are of compulsory school age in the area in which the board that appointed him has jurisdiction or who are not resident pupils of the school section but are or have been enrolled during the current school year in a public school operated by the board, except children who are subject to the jurisdiction of a school attendance counsellor appointed by a secondary or separate school board.

of separate schools

(2) A school attendance counsellor appointed by a separate school board has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of all children who are of compulsory school age and whose parents or guardians are supporters of a school operated by the board or who are not resident pupils of the separate school zone but are or have been enrolled during the current school year in a separate school operated by the board, except children who are subject to the jurisdiction of a school attendance counsellor appointed by a secondary school board.

of secondary schools

(3) A school attendance counsellor appointed by a secondary school board has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of all children of compulsory school age who are resident pupils of the secondary school district or who are not resident pupils of a secondary school

district but are or have been enrolled during the current school year in a secondary school operated by the board.

of boards of education

(4) A school attendance counsellor appointed by a board of education has jurisdiction and is responsible for the enforcement of compulsory school attendance in respect of all children who are of compulsory school age in the area in which the board has jurisdiction or who are not resident pupils of the public school section or secondary school district but are or have been enrolled during the current school year in a public or secondary school operated by the board, except children who are subject to the jurisdiction of a school attendance counsellor appointed by a separate school board. 1967, c. 90, s. 3, *part*.

Powers of counsellors

10.—(1) A school attendance counsellor may,

(*a*) enter without warrant any place where children may be employed or congregated;

(*b*) at the request of the parent or guardian apprehend and deliver to the school from which he is absent or to his parent or guardian, without warrant, any child found illegally absent from school. R.S.O. 1960, c. 361, s. 10 (1); 1967, c. 90, s. 4 (1).

Reports

(2) A school attendance counsellor shall report monthly to the body that appointed him, and annually to the provincial school attendance counsellor, on the prescribed forms. R.S.O. 1960, c. 361, s. 10 (2); 1967, c. 90, s. 4 (2).

To act under supervisory officer and provincial counsellor

(3) A school attendance counsellor shall perform his duties under the direction of the appropriate supervisory officer, and shall carry out the instructions and directions of the provincial school attendance counsellor. R.S.O. 1960, c. 361, s. 10 (3); 1967, c. 90, s. 4 (3), *amended*.

Inquiry by counsellor and notice

(4) A school attendance counsellor shall inquire into every case of failure to attend school within his knowledge or when requested so to do by the appropriate supervisory officer or principal of a school or a ratepayer, and shall give written warning of the consequences of such failure to the parent or guardian of a child who is not attending school as required, and shall also give written notice to the parent or guardian to cause the child to attend school forthwith. R.S.O. 1960, c. 361, s. 10 (4); 1967, c. 90, s. 4 (4), *amended*.

Census

11. A board may make a complete census of all children in the area in which the board has jurisdiction who have not attained the age of twenty-one years. R.S.O. 1960, c. 361, s. 11.

Reports and information

12.—(1) The principal of every elementary or secondary school shall,

(*a*) report in accordance with the regulations to the appropriate school attendance counsellor, and in the case of an elementary school also to the appropriate supervisory officer, the names, ages and residences of all pupils of compulsory school age who have not attended school as required;

(*b*) furnish the school attendance counsellor with such other information as the counsellor requires for the enforcement of compulsory school attendance;

(*c*) report to the school attendance counsellor every case of suspension or expulsion. R.S.O. 1960, c. 361, s. 12 (1); 1967, c. 90, s. 5 (1-3), *amended*.

Where no school attendance counsellor

(2) Where a child of compulsory school age has not attended school as required and there is no school attendance counsellor having jurisdiction in respect of the child, the appropriate supervisory officer concerned shall notify the parent or guardian of the child of the requirements of section 6. R.S.O. 1960, c. 361, s. 12 (2); 1967, c. 90, s. 5 (4), *amended*.

Provincial counsellor as trustee

13. Where it appears to the Minister that a public school board in territory without municipal organization is not providing accommodation for the children entitled to attend public school, or has neglected or failed to raise the necessary funds for the establishment and maintenance of a public school, or has in other respects failed to comply with *The Public Schools Act*, this Act and the regulations, or that the election of trustees has been neglected and no regular board is in existence, the Minister may authorize and direct the provincial school attendance counsellor to do all things and exercise all powers that may be necessary for the establishment and maintenance of a public school, the erection of school buildings and providing accommodations, the opening and conducting of a school, the levying of all sums of money required for public school purposes, and generally whatever may be required for the purpose of establishing, maintaining and conducting a public school in accordance with *The Public Schools Act*, this Act and the regulations, and thereupon the provincial school attendance counsellor has and may exercise and perform, as authorized by the Minister, all the authority, powers and duties vested in, and to be performed by, a public school board under *The Public Schools Act*, this Act and the regulations. R.S.O. 1960, c. 361, s. 14; 1967, c. 90, s. 7, *amended*.

R.S.O. 1970, c. 385

Liability of parent or guardian

14.—(1) A parent or guardian of a child of compulsory school age, who neglects or refuses to cause the child to attend school, is, unless the child is legally excused from attendance, guilty of an offence and on summary conviction is liable to a fine of not more than $25. R.S.O. 1960, c. 361, s. 15 (1).

Bond for attendance

(2) The provincial judge may, instead of imposing a fine, require a person convicted of an offence under subsection 1 to give a bond in the penal sum of $100, with one or more sureties to be approved by the provincial judge, conditioned that the person shall cause the child to attend school as required by this Part. R.S.O. 1960, c. 361, s. 15 (2); 1961-62, c. 130, s. 2 (1), *amended*.

Employment during school hours

(3) A person who employs a child of compulsory school age during school hours is guilty of an offence and on summary conviction is liable to a fine of not more than $25. 1968, c. 121, s. 4.

Offences by corporations

(4) If a corporation contravenes subsection 1 or 3, in addition to the corporation, every director and officer of the corporation who authorizes, permits or acquiesces in the contravention is guilty of an offence and on summary conviction is liable to the same penalty as the corporation. R.S.O. 1960, c. 361, s. 15 (4).

Children habitually absent from school

R.S.C. 1952, c. 160

(5) A child of compulsory school age who is habitually absent from school without being legally excused is guilty of an offence and on summary conviction is liable to the penalties provided for children adjudged to be juvenile delinquents under the *Juvenile Delinquents Act* (Canada), and the child and his parent or guardian may be summoned to appear before a provincial judge in the Provincial Court (Family Division), and the provincial judge has the same powers to deal with such child and his parent or guardian, including the imposition and payment of fines, as he has with respect to a juvenile delinquent and his parent or guardian under the *Juvenile Delinquents Act* (Canada). 1961-62, c. 130, s. 2 (2) *amended*.

Proceedings under subs. 5

(6) Proceedings in respect of offences under subsection 5 shall be proceeded with only in accordance with such subsection. 1961-62, c. 130, s. 2 (2).

Proceedings to be taken by attendance counsellors

15.—(1) Prosecutions under section 14 shall be instituted by the school attendance counsellor concerned and prosecutions under subsection 1 of section 14 shall be instituted in the Provincial Court (Family Division). R.S.O. 1960, c. 361, s. 16 (1); 1967, c. 90, s. 8, *amended*.

Certificate of principal as evidence

(2) In prosecutions under section 14, a certificate as to the attendance or non-attendance at school of any child, signed or purporting to be signed by the principal of the school, is *prima facie* evidence of the facts stated therein without any proof of the signature or appointment of the principal.

Proof of age

(3) Where a person is charged under section 14 in respect of a child who is alleged to be of compulsory school age and the child appears to the provincial judge to be of compulsory school age, the child shall, for the purposes of such prosecution, be deemed to

be of compulsory school age unless the contrary is proved. R.S.O. 1960, c. 361, s. 16 (2, 3), *amended*.

PART II

TEACHERS

Memorandum of contract

16.—(1) A memorandum of every contract of employment between a board and a permanent teacher or a probationary teacher shall be made in writing in the form of contract prescribed by the regulations, signed by the parties, sealed with the seal of the board and executed before the teacher enters upon his duties, but if for any reason such memorandum is not so made, or has not been amended to incorporate any change made in the form of contract so prescribed, every contract shall be deemed to include the terms and conditions contained in the form of contract prescribed for a permanent teacher, and the teacher's salary shall be payable in ten monthly payments in the manner provided therein. R.S.O. 1960, c. 361, s. 17 (1); 1968-69, c. 114, s. 2.

Board and lodging

(2) The contract may, in the case of a separate school board, include a stipulation to provide the teacher with board and lodging.

Salary of teacher

(3) Unless otherwise expressly agreed, a teacher is entitled to be paid his salary in the proportion that the total number of days during which he teaches bears to the whole number of teaching days in the year. R.S.O. 1960, c. 361, s. 17 (2-3).

Payment for absence due to illness or dental condition

(4) Subject to subsection 6, a permanent or probationary teacher is entitled to his salary for a total of twenty school days in any one school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the teacher his salary for more than twenty days absence from duty on account of such sickness or such tooth or gum condition. R.S.O. 1960, c. 361, s. 17 (4); 1964, c. 105, s. 2 (1).

Idem

(5) Subject to subsection 6, a temporary teacher is entitled to his salary for two days in respect of each month of his employment in any school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the teacher his salary for more than such two days absence from duty on account of such sickness or such tooth or gum condition. 1964, c. 105, s. 2 (2).

Itinerant teacher

(6) An itinerant teacher is entitled to his salary for 10 per cent of the periods of instruction and supervision specified in the

agreement for his employment in any one school year in respect of his absence from duty on account of his sickness certified to by a physician or on account of acute inflammatory condition of his teeth or gums certified to by a licentiate of dental surgery, but a board may in its discretion pay the itinerant teacher his salary for more than 10 per cent of the periods of instruction and supervision in respect of his absence from duty on account of such sickness or such tooth or gum condition.

Absence of teacher in quarantine

(7) Every teacher is entitled to his salary notwithstanding his absence from duty in any case where, because of exposure to a communicable disease, he is quarantined or otherwise prevented by the order of the medical health authorities from attending upon his duties.

Appearing as witness in court

(8) Every teacher is entitled to his salary notwithstanding his absence from duty as a witness in any court to which he has been summoned in any proceedings to which he is not a party or one of the persons charged.

Disputes between teachers and trustees

(9) All matters of difference between boards and teachers in regard to salary or other remuneration, whatever may be the amount in dispute, shall be determined in the small claims court of the division in which the cause of action arose, subject to appeal as provided in section 17.

Award of salary by way of penalty

(10) If it appears to the judge on the trial of an action for the recovery of a teacher's salary that there was not reasonable ground for the board disputing its liability or that the failure of the board to pay was from an improper motive, he may award as a penalty a sum not exceeding three months salary.

Failure of board to pay salary when no written agreement

(11) For the purposes of subsection 10, the failure of a board to pay a teacher's salary may be extended by a judge to include failure to pay a teacher's salary when an agreement for his employment has been made by the board but no written memorandum has been made and executed as required by subsection 1, if the judge is satisfied upon the evidence that the refusal of the board to pay the salary by reason of the absence of a memorandum in writing is without merit. R.S.O. 1960, c. 361, s. 17 (5-10).

Appeals from small claims court judgment

17.—(1) In an action between a teacher and a board under section 16, the judge of the small claims court in which the action is tried may, at the request of either party, order the entering of judgment to be delayed for a sufficient time to enable such party to apply to the Minister to appeal.

Appeal by Minister

(2) The Minister may, within one month after the rendering of judgment, appeal from the decision of the judge to the Court of Appeal, by serving notice in writing of such appeal upon the clerk of the small claims court appealed from, which appeal may be

entitled "The Minister of Education of Ontario, Appellant, in the matter between (*naming the parties*)".

Transmission of papers to Supreme Court

(3) The judge shall thereupon transmit to the office of the Registrar of the Supreme Court at Toronto, certified under his hand, the summons and other proceedings in the action, together with the evidence and his judgment thereon, and all objections made thereto, and he shall also certify under his hand to the Minister a true copy of the summons, proceedings, evidence, judgment and objections.

Stay of proceedings

(4) After service of the notice of appeal no further proceedings shall be had until the appeal has been determined.

Direction to the court below

(5) The Court of Appeal shall give such order or direction to the court below touching the judgment to be given as the circumstances require, and upon receipt of such order or direction the judge shall proceed in accordance therewith.

Costs

(6) The Court of Appeal may also in its discretion award costs against the party on whose behalf an unsuccessful appeal is taken which shall be certified to and form part of the judgment of the court below, and such costs and any costs incurred by such party may be paid by the Minister and charged as contingent expenses of his office.

Right of appeal

(7) Notwithstanding anything herein contained, any party to an action in which the plaintiff claims more than $100 has the same right of appeal as in an action in the small claims court. R.S.O. 1960, c. 361, s. 18, *amended*.

Teachers to be qualified R.S.O. 1970, c. 111

18.—(1) Subject to *The Department of Education Act*, no person shall be employed or act as a teacher in an elementary or secondary school unless he is qualified as prescribed by the regulations. R.S.O. 1960, c. 361, s. 19 (1).

Certificates

(2) Subject to *The Department of Education Act*, a certificate of qualification as a teacher may be awarded only to a British subject of good moral character and physically fit to perform the duties of a teacher, who passes the examinations prescribed by, and otherwise complies with, the regulations.

Idem

(3) All certificates are valid for such periods as the regulations prescribe. R.S.O. 1960, c. 361, s. 19, (3, 4).

Use of unapproved text-books

19.—(1) A teacher shall not use or permit to be used as a text-book in a prescribed subject in an elementary or secondary school any book that is not approved by the Minister or the regulations, and the Minister, upon the report of the supervisory officer concerned, may withhold the whole or any part of the legislative grants in respect of any school in which an unapproved book is so used.

Idem

(2) Where a teacher uses as a text-book, or negligently or wilfully permits to be used as a text-book by the pupils of his school, in a prescribed subject, a book that is not approved by the Minister or the regulations, the Minister, on the report of the supervisory officer of the school, may suspend the teacher and the board that operates the school may deduct from the teacher's salary a sum equal to so much of the legislative grants as has been withheld on account of the use of the book or any less sum at its discretion. R.S.O. 1960, c. 361, s. 20 (1, 2), *amended*.

Change of text-book

(3) Subject to the written approval of the board that operates the school, a teacher may replace any approved text-book that is in actual use in an elementary or secondary school by any other approved text-book on the same subject. R.S.O. 1960, c. 361, s. 20 (3).

Refusal to give up school property

20. A teacher who refuses, on demand or order of the board that operates the school concerned, to deliver to the board any visitors' book, school register, schoolhouse key or any other school property in his possession is not a qualified teacher until restitution is made and he also forfeits any claim that he may have against the board. R.S.O. 1960, c. 361, s. 21.

Duties of teacher:

21.—(1) It is the duty of a teacher,

teach

(*a*) to teach diligently and faithfully the subjects in the course of study as prescribed by the regulations;

learning

(*b*) to encourage the pupils in the pursuit of learning;

religion and morals

(*c*) to inculcate by precept and example respect for religion and the principles of Christian morality and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance and all other virtues;

discipline

(*d*) to maintain proper order and discipline in his classroom and while on duty in the school and on the playground under the direction of the principal;

language of instruction

(*e*) in instruction and in all communications with the pupils in regard to discipline and the management of the school,

(i) to use the English language, except where it is impractical to do so by reason of the pupil not understanding English, and except in respect of instruction in a language other than English when such other language is being taught as one of the subjects in the course of study, or

(ii) to use the French language in schools or classes in which French is the language of instruction except

where it is impractical to do so by reason of the pupil not understanding French, and except in respect of instruction in a language other than French when such other language is being taught as one of the subjects in the course of study;

(*f*) to see that the classroom is ready for the reception of pupils at least fifteen minutes before the time of opening in the morning and five minutes before the time of opening in the afternoon; classroom ready

(*g*) to conduct his class in accordance with a timetable which shall be accessible to pupils and to the principal and supervisory officer; timetable

(*h*) to attend regularly the teachers' institute of which he is a member; teachers' institute

(*i*) to notify the board and the supervisory officer of his absence from school and the reason therefor; and absence from duty

(*j*) to deliver the register, the schoolhouse key and other school property in his possession to the board on demand, or when his agreement with the board has expired, or when for any reason his engagement has ceased. R.S.O. 1960, c. 361, s. 22 (1); 1966, c. 140, s. 4 (1); 1968, c. 121, s. 5, *amended*. school property

(2) It is the duty of a principal, in addition to his duties as a teacher, Duties of principal:

(*a*) to maintain proper order and discipline in the school; discipline

(*b*) to register the pupils, classify them according to the courses of study prescribed, and record their progress through school; classify pupils

(*c*) to ensure that the attendance of pupils for every school day is recorded in the register supplied by the Minister in accordance with the instructions contained therein or in such other manner as is approved by the Minister; attendance records

(*d*) to prepare and conduct the school according to a timetable which shall be accessible to pupils, teachers and the supervisory officers; timetable

(*e*) to hold such examinations as may be required by the inspector for the promotion of pupils or for any other purpose as the supervisory officer may direct and report the progress of the pupil to his parent or guardian at least for each school term; examinations and reports

(*f*) subject to revision by the supervisory officer, to make at the end of each school term such promotions from one grade to another as he considers expedient; promote pupils

unauthorized texts

(*g*) to prevent the use by pupils of text-books that are not approved under the regulations;

reports

(*h*) to furnish to the Minister and to the supervisory officer any information that it may be in his power to give respecting the condition of the school premises, the discipline of the school, the progress of the pupils and any other matter affecting the interests of the school, and to prepare such reports for the board as are required by the regulations;

care of pupils and property

(*i*) to give assiduous attention to the health and comfort of the pupils, to the cleanliness, temperature and ventilation of the schoolhouse, to the care of all maps, apparatus and other school property, to the preservation of shade trees and the orderly arrangement and neat appearance of the playgrounds;

report to M.O.H.

(*j*) to report promptly to the board and to the municipal health officer or to the school medical officer where one has been appointed, when he has reason to suspect the existence of any infectious or contagious disease in the school, or the unsanitary condition of the schoolhouse, outhouses or surroundings;

pupils with communicable diseases

R.S.O. 1970, c. 377

(*k*) to refuse admission to the school of any pupil who he believes is infected with or exposed to communicable diseases requiring quarantine and placarding under regulations made pursuant to *The Public Health Act* until furnished with a certificate of a medical officer of health or of a duly qualified medical practitioner approved by him that all danger from exposure to contact with such pupil has passed;

suspend a pupil

(*l*) to suspend any pupil guilty of persistent truancy, or persistent opposition to authority, habitual neglect of duty, the use of profane or improper language, or conduct injurious to the moral tone of the school, and to notify the parent or guardian of the pupil and the board and the supervisory officer of the suspension, but the parent or guardian of any pupil suspended may appeal against the action of the principal to the board which has power to remove, confirm or modify the suspension; and

visitors book

(*m*) to keep a visitors book and make it available for visitors to sign. R.S.O. 1960, c. 361, s. 22 (2); 1964, c. 105, s. 4; 1966, c. 140, s. 4 (2), *amended*.

Organization of teachers' institutes

22. Subject to the regulations, teachers may organize themselves into teachers' institutes for the purpose of receiving instruction in methods of teaching and for discussing educational methods. R.S.O. 1960, c. 361, s. 23 (1).

PART III

SCHOOL TRUSTEES' AND TEACHERS' BOARDS OF REFERENCE

Interpretation

23. In this Part,

(*a*) "contract" means a contract of employment between a teacher and a board in accordance with Part II and the regulations;

(*b*) "employed" means engaged as a permanent teacher by a board;

(*c*) "judge" means a judge of a county or district court;

(*d*) "teacher" means a person qualified to teach in an elementary or secondary school, and employed as a permanent teacher by a board, in accordance with Part II and the regulations. R.S.O. 1960, c. 361, s. 24.

Termination of employment, by school board

24.—(1) The dismissal of a teacher, or the termination of the contract of a teacher, by a board shall be by notice in writing, which shall state the reasons therefor, in accordance with the terms of the contract.

by teacher

(2) Where a teacher is employed by a board, the termination of such employment by the teacher shall be by notice in writing in accordance with the terms of the contract.

Application for board

(3) Notwithstanding anything in this or any other Act, where a teacher is dismissed or the engagement of a teacher is terminated by the board or teacher, the teacher or board if not in agreement with the dismissal or termination may at any time within fifteen days after receiving the notice referred to in subsection 1 or 2, as the case may be, apply in writing by registered letter to the Minister for a Board of Reference, stating the disagreement.

Service of notice

(4) The applicant shall send a copy of the application by registered mail to the other party to the disagreement on the same day as the application is sent to the Minister. R.S.O. 1960, c. 361, s. 25.

Appointment in place of teacher dismissed

25.—(1) A board shall not make a permanent appointment to take the place of a teacher who is dismissed or whose appointment has been terminated in a manner not agreeable to the teacher until,

(*a*) the time prescribed for applying for a Board of Reference has elapsed and the teacher has not applied for a Board of Reference and sent a copy of the application to the board, as provided in section 24;

(*b*) the board has received from the teacher notice in writing that no application will be made under section 24;

(*c*) the board has received from the Minister notice in writing that an application made by the teacher under section 24 has been withdrawn;

(*d*) the board has received from the Minister notice in writing that he has refused an application made by the teacher under section 24;

(*e*) the board has received from the Minister notice in writing that the teacher, being the applicant, has failed to comply with the requirements of subsection 3 of section 26; or

(*f*) the board has received from the Minister a direction under section 29 directing the discontinuance of the contract,

whichever first occurs.

Contract after termination of engagement of teacher

(2) A teacher who terminates an engagement in a manner not agreeable to the board shall not enter into a contract of employment with another board after the teacher has received notice of the application of the school board for a Board of Reference until,

(*a*) the teacher has received from the Minister notice in writing that an application made by the board under section 24 has been withdrawn;

(*b*) the teacher has received from the Minister notice in writing that he has refused an application made by the board under section 24;

(*c*) the teacher has received from the Minister notice in writing that the board, being the applicant, has failed to comply with the requirements of subsection 3 of section 26; or

(*d*) the teacher has received from the Minister a direction under section 29 directing the discontinuance of the contract,

whichever first occurs. R.S.O. 1960, c. 361, s. 26.

Application for Board of Reference

26.—(1) Upon receipt of an application for a Board of Reference, the Minister shall send notice of the application by registered mail to the other party to the disagreement and shall within thirty days thereof inquire into the disagreement and shall, within the same time,

(*a*) refuse to grant the Board of Reference; or

(*b*) grant the Board of Reference and direct a judge to act as chairman thereof.

(2) Before directing a judge to act as chairman of a Board of Reference, the Minister may require the applicant to furnish security for costs in such amount and in such form as he considers advisable. R.S.O. 1960, c. 361, s. 27 (1, 2). Security for costs

(3) Upon directing a judge to act as chairman of a Board of Reference, the Minister shall cause notice thereof to be sent by registered mail to the board and teacher involved in the disagreement and the notice shall require each of them to name to the Board of Reference a representative who is not the teacher involved or a member of the board and to send by registered mail to the Minister a notice of such nomination within twelve days of the sending of the notice by the Minister. 1968-69, c. 114, s. 3. Naming of representatives

(4) If the applicant fails to comply with the requirements of subsection 3, the application shall be deemed to be abandoned and the Minister shall cause notice thereof to be sent by registered mail to the other party to the disagreement. Failure to name representatives

(5) If the respondent fails to comply with the requirements of subsection 3, the Minister shall direct the continuance of the contract. Idem

(6) If the representative of the board or the teacher, having been named, fails to appear at the hearing, the chairman of the Board of Reference shall name a representative for the board or teacher, as the case may be. R.S.O. 1960, c. 361, s. 27 (4-6). Failure of representatives to appear

27. The chairman of the Board of Reference shall, within thirty days of his appointment, and upon reasonable notice thereof to the parties, convene the Board of Reference in any appropriate and convenient court house or municipal or school building and at such time as he may appoint. R.S.O. 1960, c. 361, s. 28. Place and time of hearing

28.—(1) The Board of Reference shall inquire into the matter in dispute and for such purpose the chairman has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. Duty to inquire and powers of judge R.S.O. 1970, c. 379

(2) The meetings of the Board of Reference shall be held *in camera*. R.S.O. 1960, c. 361, s. 29. Meetings *in camera*

29.—(1) Upon the completion of the hearing, the Board of Reference shall report to the Minister within seven days and direct the continuance of the contract or the discontinuance thereof, and may also make such recommendations as it considers advisable. Board of Reference to report

(2) The Minister shall cause a copy of the direction of the Board of Reference and of its report, including recommendations, if any, to be sent by registered mail to the board and the teacher Notice of direction

within seven days of the receipt of the report, and shall direct the implementation of the direction of the Board of Reference. R.S.O. 1960, c. 361, s. 30.

Direction of Board

30.—(1) The direction of the Board of Reference under section 29 is binding upon the board and the teacher.

Failure to comply with direction of Board

(2) If a board fails to comply with the direction of the Board of Reference under section 29, any amounts then or thereafter payable to the board under the authority of any Act of the Legislature shall not be paid to the board until it has complied with the direction.

Idem

(3) If a teacher fails to comply with the direction of the Board of Reference under section 29, the Minister shall suspend the certificate of qualification of the teacher for such period as he considers advisable. R.S.O. 1960, c. 361, s. 31.

Payment of costs

31. Subject to the regulations made under section 32, the chairman of the Board of Reference shall determine and direct the costs to be paid by either or both parties in the disagreement, and every such order may be enforced in the same manner as an order as to costs made in an action in a county or district court. R.S.O. 1960, c. 361, s. 32.

Regulations

32. The Lieutenant Governor in Council may make regulations,

(*a*) fixing the remuneration of members of Boards of Reference and defining, prescribing and limiting other items of expense, including travelling and living expenses, which shall be included in the costs of a Board of Reference;

(*b*) regulating the practice and procedure to be followed upon any reference; and

(*c*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part. R.S.O. 1960, c. 361, s. 33, *amended*.

PART IV

BOARDS AND TRUSTEES

Duties of boards:

33. Every board shall,

conduct schools

1. ensure that every school under its charge is conducted in accordance with this Act, the Act under which it is operated, and the regulations;

appoint secretary, treasurer

2. appoint a secretary and a treasurer or a secretary-treasurer, who, in the case of a rural elementary school board, may be a member of the board;

3. fix the times and places for the meetings of the board and the mode of calling and conducting them, and ensure that a full and correct account of the proceedings thereat is kept; meetings

4. transmit to the Minister all reports and returns required by the regulations; reports

5. provide adequate accommodation during each school year for the children who have a right to attend a school under the jurisdiction of the board; provide accommodation

6. make provision for insuring adequately the school buildings and equipment; insure buildings

7. take proper security from the treasurer or secretary-treasurer; security of treasurer

8. keep the school buildings, fences and premises in proper repair and in a proper sanitary condition, provide suitable furniture and equipment and keep it in proper repair, and protect the property of the board; repair property

9. erect and maintain any wall or fence considered necessary by the board for enclosure of the school premises; erect fences

10. appoint for each school that it operates a principal and an adequate number of teachers all of whom shall be qualified according to the Acts and regulations administered by the Minister; appoint principal and teachers

11. provide, without charge, for the use of the pupils attending the school or schools operated by the board, the text-books that are required by the regulations to be purchased by the board. R.S.O. 1960, c. 361, s. 34; 1964, c. 105, s. 6; 1966, c. 140, s. 5; 1968, c. 121, s. 7. provide text-books

34. A board may, Powers of boards:

1. appoint such committees as it considers expedient; committees

2. subject to Part III, appoint and remove such teachers, officers and servants as it considers expedient, determine the terms on which they are to be employed, and fix their salaries and prescribe their duties; R.S.O. 1960, c. 361, s. 35, pars. 1, 2. appoint employees

3. appoint a psychiatrist who is on the register of specialists in psychiatry of the Royal College of Physicians and Surgeons of Canada or of the College of Physicians and Surgeons of Ontario or a psychologist who is a legally qualified medical practitioner or holds a certificate of registration under *The Psychologists Registration Act*, who shall perform his duties in accordance with this Act and the regulations; 1960-61, c. 92, s. 2. psychiatrist or psychologist

R.S.O. 1970, c. 372

dismiss secretary or treasurer

4. dismiss the secretary or treasurer at any time, and thereupon shall make a new appointment to fill the vacancy;

attendance areas

5. determine the number, kind, grade, description and territorial boundaries of schools to be established and maintained;

sites

6. acquire or rent school sites;

build schools

7. build school buildings on property owned by the board within its jurisdiction;

playgrounds, parks, rinks

8. operate the playground as a park or playground and rink during the school term or in vacation or both, and provide and maintain such equipment as it considers advisable, and provide such supervision as it considers proper, provided the proper conduct of the school is not interfered with;

gymnasiums

9. organize and carry on gymnasium classes in school buildings for pupils or others during the school term or in vacation or both, and provide supervision and training for such classes, provided the proper conduct of the school is not interfered with;

milk

10. purchase milk to be consumed by the pupils in the schools under the jurisdiction of the board during school days in accordance with the terms and conditions prescribed by the regulations; R.S.O. 1960, c. 361, s. 35, pars. 3-9.

provision of supplies, etc.

11. provide school supplies, other than the text-books that it is required to provide under paragraph 11 of section 33, for the use of pupils and collect from their parents or guardians a sum not exceeding 50 cents per pupil for each month of the school year to assist in defraying the cost thereof; 1965, c. 118, s. 4 (1).

equipment and school libraries

12. procure registers, maps, globes, apparatus and prize books, and establish and maintain school libraries,

provide system for pupil savings

13. provide books, stationery and other materials necessary in connection with the establishment and maintenance of any system introduced for the encouragement of thrift and the habit of saving;

medical and dental inspection

14. provide and pay for such medical and dental inspection of the pupils as the regulations may prescribe, or in the absence of regulations as the board considers proper, but only where provision for such medical and dental inspection was inaugurated by the board before the 31st day of July, 1924, in the case of an elementary school board and

before the 31st day of December, 1941, in the case of a secondary school board;

15. pay the travelling expenses and membership fees of any member of the board or of any teacher or officer of the board, incurred in attending meetings of the Ontario Educational Association or other similar association of teachers or trustees and may make grants and pay membership fees to any such association; R.S.O. 1960, c. 361, s. 35, pars. 11-14. trustees' fees and travelling expenses

16. pay the costs, or any part thereof, incurred by any member of the board or by any teacher, officer or other employee of the board in successfully defending any legal proceeding brought against him, legal costs

    i. for libel or slander in respect of any statements relating to the employment, suspension or dismissal of any person by the board published at a meeting of the board or of a committee thereof, or

    ii. for assault in respect of disciplinary action taken in the course of duty; 1967, c. 90, s. 9 (1).

17. invest funds received from an insurance claim, gift, legacy or sale of property in such securities as a trustee may invest in under *The Trustee Act*; R.S.O. 1960, c. 361, s. 35, par. 16. invest funds R.S.O. 1970, c. 470

18. invest moneys not required immediately by the board in treasury bills or short-term bonds of the Government of Canada or Province of Ontario and in fixed-term deposits with any chartered bank or lend such moneys to any municipality by way of promissory note of the municipality, provided that the treasury bills, short-term bonds, deposit certificates or promissory notes become due and payable before the moneys invested therein are required by the board, and all interest thereon shall be credited to the fund from which the moneys were invested; 1968, c. 121, s. 8 (1); 1968-69, c. 114, s. 4 (1). idem

19. make provision for insuring the board, its employees or any group thereof, against claims in respect of accidents incurred by pupils while under the jurisdiction or supervision of the board; R.S.O. 1960, c. 361, s. 35, par. 17; 1968, c. 121, s. 8 (2). accident insurance

20. appoint supervisors of the teaching staff for positions that are provided for in any Act or regulation administered by the Minister and every appointee shall hold the qualifications and perform the duties required in the Act or regulations; R.S.O. 1960, c. 361, s. 35, par. 18, *amended*. supervisors

student fees

21. subject to the provisions of this Act and the Act under which the school is operated, fix the fees to be paid by or on behalf of pupils, and the times of payment thereof, and when necessary enforce payment thereof; R.S.O. 1960, c. 361, s. 35, par. 19; 1965, c. 118, s. 4 (2).

order payment of bills

22. give the necessary orders on the treasurer for payment of all moneys expended for school purposes and of such other expenses for promoting the interests of the schools under the jurisdiction of the board as may be authorized by this Act or the Act under which the board is established or the regulations and by the board; R.S.O. 1960, c. 361, s. 35, par. 20.

permit use of school and school buses

23. permit the school buildings and premises and school buses owned by the board to be used for any educational or other lawful purposes that it considers proper, provided the proper conduct of the school is not interfered with; R.S.O. 1960, c. 361, s. 35, par. 21; 1967, c. 90, s. 9 (2).

expel pupils

24. expel, on the report of the principal, any pupil whose conduct is deemed to be so refractory that his presence in school is injujrious to other pupils, and exlude any pupil by or on behalf of whom fees are legally required to be paid if such fees are not paid after reasonable notice;

cadet corps

25. establish and maintain cadet corps and classes in military instruction and provide uniforms for such purposes;

athletics

26. provide for the promotion and encouragement of athletics and for the holding of school games; R.S.O. 1960, 361, s. 35, pars. 22-24.

activities

27. provide, during the school year or at other times, activities and programs on or off school premises, including field trips, and exercise jurisdiction over those persons participating therein; 1968-69, c. 114, s. 4 (2).

guidance

28. appoint one or more teachers qualified in guidance according to the regulations to collect and distribute information regarding available occupations and employments, and to offer such counsel to the pupils as will enable them to plan intelligently for their educational and vocational advancement; 1965, c. 118, s. 4 (3).

public lectures

29. subject to the regulations, establish, conduct and maintain free lectures open to the public and include in the estimates for the current year the expense thereof;

summer schools

30. establish summer schools in subjects of the course of study; R.S.O. 1960, c. 361, s. 35, pars. 26, 27.

31. establish and conduct during the school year courses for teachers; 1967, c. 90, s. 9 (3), *part*. winter courses

32. establish evening classes; 1968-69, c. 114, s. 4 (3). evening classes

33. authorize and exercise jurisdiction over such other school activities as pertain to the welfare of the pupils; R.S.O. 1960, c. 361, s. 35, par. 28. student activities

34. provide or pay for board and lodging for a pupil for a period not exceeding two weeks in any year while he participates, with the consent of his parent or guardian and with the permission of the board, in a natural science, conservation or other out-of-classroom programs; 1968-69, c. 114, s. 4 (4). board for courses in conservation

35. operate a cafeteria for the use of the staff and students; R.S.O. 1960, c. 361, s. 35, par. 30. cafeteria

36. provide, by contract with an insurer licensed under *The Insurance Act*, accident, etc., insurance R.S.O. 1970, c. 224

    i. group accident insurance to indemnify a member of a board or of an advisory committee appointed by a board or his estate against loss in case he is accidentally killed or injured, and

    ii. group public liability and property damage insurance to indemnify a member of a board or of an advisory committee appointed by a board or his estate in respect of loss or damage for which he has become liable by reason of injury to persons or property or in respect of loss or damage suffered by him by reason of injury to his own property,

    while travelling on the business of the board or in the performance of his duties as a member of the board or of an advisory committee either within or outside the area over which the board has jurisdiction; 1968, c. 121, s. 8 (3).

37. upon obtaining the written approval of the licensed municipal auditor of the board, authorize the destruction of receipts, vouchers, instruments, rolls, documents, records and papers that are at least seven years old as of the 1st day of January of the current year, except school registers, records of pupils' standings, minute books, annual financial reports, cash books, journals, ledgers, debenture registers, assessment rolls, tax collector's rolls, deeds, plans of buildings and other documents that the board considers of permanent value or historical interest; 1962-63, c. 129, s. 2, *part*. destruction of documents

children in charitable organizations

38. employ and pay teachers, when so requested in writing by a charitable organization having the charge of children of school age, for the education of such children, whether such children are being educated in premises within or beyond the limits of the jurisdiction of the board, and pay for and furnish school supplies for their use, and any children being so educated are subject to this Act, *The Public Schools Act*, *The Separate Schools Act*, *The Secondary Schools and Boards of Education Act* and the regulations;

R.S.O. 1970, cc. 385, 430, 425

accident and public liability insurance re work-experience programs

39. where, in co-operation with business and industry, it provides for pupils' training programs designed to supplement the courses given in its schools, provide, by contract with an insurer under *The Insurance Act*, accident insurance to indemnify such pupils against loss in case they are accidentally injured while participating in such a program and public liability insurance to insure such pupils and the board against loss or damage to the person or property of others while the pupils are participating in such a program; 1964, c. 105, s. 7.

maternity leave

40. provide for maternity leave for a teacher, not exceeding two years for each pregnancy, and specify when such leave shall be taken;

insurance for pupils

R.S.O. 1970, c. 224

41. provide, by contract with an insurer under *The Insurance Act*, accident and life insurance for pupils, the cost of which is to be paid on a voluntary basis by the parents or guardians; 1965, c. 118, s. 4 (4).

special education programs

42. subject to the approval of the Minister, establish, as provided by the regulations, special education programs to provide special education services for children who require such services;

assumption of cerebral palsy and crippled children's treatment centres

43. when requested by the board of a cerebral palsy treatment centre school or a crippled children's treatment centre school and with the approval of the Minister, by agreement, assume the assets and liabilities of such board and continue to operate such a school, and, upon the effective date of the agreement between the two boards, the board making the request is dissolved; 1967, c. 90, s. 9 (3), *part*.

agreements for joint use of facilities

44. enter into an agreement with the council of a municipality, including a regional municipality or a county, or a local board thereof except a school board, in respect of the joint use of educational and municipal facilities; 1968-69, c. 114, s. 4 (5).

recreation committees

45. where a recreation committee or a joint recreation committee has been appointed for territory without

municipal organization within the jurisdiction of the board, exercise the powers and duties of a municipal council with respect to preparing estimates of the sums required during the year for the purposes of the committee or joint committee, and levying rates and collecting taxes for such purposes on the rateable property supporting the board in such territory, and where such a joint recreation committee has been appointed, apportion the costs of such committee by agreement with the other board concerned. 1968-69, c. 114, s. 4 (6).

Collection of rates in territory without municipal organization by action R.S.O. 1970, cc. 385, 430, 425

35. In addition to any other remedy possessed by a board in territory without municipal organization for the recovery of rates imposed under the authority of *The Public Schools Act*, *The Separate Schools Act* or *The Secondary Schools and Boards of Education Act*, the board, with the approval in writing of the appropriate supervisory officer, may bring an action in a court of competent jurisdiction for the recovery of any rates in arrear against the person assessed therefor. 1967, c. 90, s. 10, *amended*.

Agreements to provide administrative accommodation or sharing of teachers, etc.

36. A public school board or a secondary school board may enter into an agreement with any other board to provide for the other board,

(*a*) accommodation for administrative purposes; or

(*b*) the services of a psychiatrist, psychologist or teacher. 1966, c. 140, s. 6.

Agreements re accommodation for Indian pupils

37.—(1) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide accommodation and tuition for the maximum number of Indian pupils agreed upon, and the fees therefor shall be as provided in section 72.

Idem

(2) A board may enter into an agreement with the Crown in right of Canada for a period specified in the agreement to provide for a payment from the Crown in right of Canada to provide additional classroom accommodation and to provide tuition for a maximum of thirty-five Indian pupils for each additional classroom so provided, and the fees therefor shall be as provided in section 72, but exclusive of expenditures for the erection of school buildings for instructional purposes and additions thereto.

Appointed representative of Indian pupils

(3) Where a board has entered into an agreement under this section, the board, on the recommendation of the council of the Indian band concerned, may appoint as a member of the board such person as it considers proper to represent the interests of the Indian pupils served by the board, and the person so appointed has all the powers and duties of a member of the board as though he were eligible and duly elected as a member of the board. 1967, c. 90, s. 11.

Agreements re pupils in federal establishments

38. A board may enter into an agreement with the Crown in right of Canada for such periods and under such conditions as are specified in the agreement whereby the board may provide for the education of pupils who reside on land held by the Crown in right of Canada in a school or schools operated by the board on land owned by the board or by the Crown in right of Canada. 1968-69, c. 114, s. 5.

French-language elementary schools and classes

39.—(1) A divisional board of education, public school board or separate school board may establish and maintain elementary schools or classes in elementary schools, including kindergarten classes, for the purpose of providing for the use of the French language in instruction of French-speaking pupils.

Request by parents for French-language school or classes

(2) Where ten or more French-speaking ratepayers of a school division, school section or separate school zone apply in writing to the board thereof for the use of the French language in instruction of French-speaking pupils, and,

(*a*) the parents or guardians of thirty or more French-speaking pupils in the primary, junior or intermediate division elect to have such pupils taught in the French language, and such pupils can be assembled for this purpose in a class or classes as part of a school, the board shall provide for the use of the French language in instruction in such class or classes; and

(*b*) in the opinion of the board the number of such French-speaking pupils so warrants, the board shall provide for the use of the French language in instruction in a French-language elementary school.

Request by parents for English-language school or classes

(3) Where French is the language of instruction in a public or separate school and ten or more English-speaking ratepayers of the school division, school section or separate school zone apply in writing to the board thereof for the use of the English language in instruction of English-speaking pupils, and,

(*a*) the parents or guardians of thirty or more English-speaking pupils in the primary, junior or intermediate division elect to have such pupils taught in the English language, and such pupils can be assembled for this purpose in a class or classes as part of a school, the board shall provide for the use of the English language in instruction in such class or classes; and

(*b*) in the opinion of the board the number of such English-speaking pupils so warrants, the board shall provide for the use of the English language in instruction in an English-language elementary school.

English subject of instruction

(4) Notwithstanding subsections 1 and 2, English may be a subject of instruction in any grade and in any case shall be a subject of instruction in Grades 5, 6, 7 and 8.

(5) On the request of a parent or guardian of a pupil, a board may admit such pupils to classes formed by it under subsection 1 or 2 if such pupil has a right to attend a school operated by the board and the principal is satisfied that the attendance of such pupil will not delay the progress of the French-speaking pupils. 1968, c. 121, s. 9. Admission of pupils other than French-speaking pupils

40.—(1) A board may pay to each trustee, except members of a board of education who are not entitled to vote on a motion that affects public schools exclusively, for each month an honorarium not exceeding an amount based on the enrolment on the 30th day of September in the preceding year in all the schools which, on the 1st day of January of the current year, are operated by the board, as follows: Honorarium for trustees

Enrolment	Maximum Monthly Honorarium
Fewer than 100	$ 10
100 or more but fewer than 500	25
500 " " " " " 2,000	50
2,000 " " " " " 5,000	100
5,000 " " " " " 15,000	150
15,000 " " " " " 30,000	200
30,000 " " " " " 60,000	250
60,000 or more	300

1968, c. 121, s. 10 (1); 1968-69, c. 114, s. 6 (1).

(2) A board of education may pay to each trustee who is not entitled to vote on a motion that affects public schools exclusively, an honorarium for each month not exceeding the amount provided in subsection 1 based on the enrolment on the 30th day of September in the preceding year in all secondary schools which, on the 1st day of January of the current year, are operated by the board. 1968, c. 121, s. 10 (2). Trustees for secondary school purposes only

(3) A board may pay to its chairman, in addition to any honorarium that may be paid to him as trustee, an additional honorarium not exceeding one-third of the honorarium that may be paid to him as trustee. 1966, c. 140, s. 7 (2); 1968, c. 121, s. 10 (3). Chairman, additional honorarium

(4) A board of education may pay to each member of an advisory vocational committee who is not a trustee, an honorarium for each month not exceeding one-half of the amount provided in subsection 1 based on the enrolment on the 30th day of September in the preceding year in all secondary schools which, on the 1st day of January of the current year, are operated by the board. 1968, c. 121, s. 10 (4); 1968-69, c. 114, s. 6 (2). Members of advisory vocational committees

(5) A board with more than three trustees may pay to a trustee an allowance of 10 cents for each mile necessarily travelled by him to and from his residence to attend a meeting of the board or a committee of the board that is held within the boundaries of its jurisdiction. 1964, c. 105, s. 8, *part*. Mileage allowance for board meetings

Expenses for authorized travel on board business

(6) A board may authorize a trustee, teacher or official of the board to travel on designated business of the board, and may reimburse the trustee, teacher or official for his actual expenses incurred on business of the board, or such lesser amount as may be determined by the board. 1964, c. 105, s. 8, *part*; 1968, c. 121, s. 10 (5).

Deduction because of absence

(7) A board may provide for a deduction of a reasonable amount from the honorarium of a trustee because of absence from regular or committee meetings of the board. 1964, c. 105, s. 8, *part*.

Advisory committee members

(8) Subsections 5, 6 and 7 apply *mutatis mutandis* to members of,

(*a*) an advisory vocational committee;

(*b*) an advisory committee on schools for trainable retarded children; and

(*c*) a French-language committee for secondary school purposes,

who are not members of the board. 1968, c. 121, s. 10 (6).

Business administrator

41.—(1) Where the board determines that at least one person should be employed full time to carry out the duties of a secretary or treasurer, it may appoint a business administrator.

Duties

(2) A board may assign any of the duties of the secretary, treasurer and supervisor of maintenance of school buildings to a business administrator.

Status

(3) Where a board appoints more than one business administrator, it may designate two or more with equal status or may designate one or more as assistant business administrators. 1961-62, c. 130, s. 3.

Transportation of pupils

42.—(1) A board may provide transportation for its resident pupils to and from a school that the board operates or for its pupils for whom it pays fees in a school operated by another board.

Elementary to secondary

(2) An elementary school board may provide transportation to a secondary school for pupils whose parents or guardians are supporters of the elementary school and who do not reside in a secondary school district. R.S.O. 1960, c. 361, s. 37 (1, 2).

Pupils in unorganized territory

(3) A public school board may furnish transportation for pupils who reside in territory without municipal organization, but not in a school section, to a school that the board operates, to a school operated by another public school board or to a secondary school. 1964, c. 105, s. 9, *part*; 1965, c. 118, s. 6 (1).

Idem

(4) A separate school board may furnish transportation for pupils who reside in territory without municipal organization, but

not in a separate school zone or a school section, to a school that the board operates, to a school operated by another separate school board or to a secondary school. 1964, c. 105, s. 9, *part*; 1965, c. 118, s. 6 (2).

Purchase of bus

(5) For the purposes of this section, a board may purchase a vehicle either from current revenue or from a debenture issued for that purpose.

Agreements

(6) For the purposes of this section, a board may make an agreement or agreements for one school year or less with a corporation, commission or person for the transportation of such pupils. R.S.O. 1960, c. 361, s. 37 (3, 4).

Agreements not exceeding five years

(7) Where a board provides transportation for more than thirty pupils, the board may, with the approval of the Ontario Municipal Board, make an agreement for a term not exceeding five years. 1965, c. 118, s. 6 (3).

Boarding of secondary school pupils residing in territorial district

(8) Where a pupil resides in a school section or separate school zone in a territorial district but not in a school division with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school that he is eligible to attend, an elementary school board may, in lieu of providing daily transportation to and from school under subsection 2, reimburse the parent or guardian at the end of each month for the cost of providing for such pupil board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends. 1968, c. 121, s. 11 (1).

Idem

(9) Where a pupil resides in a territorial district but not in a school section, a separate school zone or a school division, with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school that he is eligible to attend, the board of the secondary school that he attends may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends. 1968, c. 121, s. 11 (2).

Idem

(10) Where a pupil resides with his parent or guardian in a school division in a residence that,

(*a*) in a territorial district is fifteen miles or more; or

(*b*) in a county is thirty miles or more,

by road or rail from a secondary school that he attends under section 6 or 60 or that he has a right to attend under section 62 or 43 of *The Secondary Schools and Boards of Education Act*, or where R.S.O. 1970, c. 425

a pupil resides with his parent or guardian on an island in a school division, the board of the school division of which he is a resident pupil may, in lieu of providing daily transportation to and from the secondary school that he attends, reimburse the parent or guardian at the end of each month for the cost of providing for such pupil board, lodging and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends. 1968, c. 121, s. 11 (3).

Boarding and transportation of secondary school pupils in a territorial district taking "francais" subject

(11) Where a secondary school pupil resides in a territorial district in a school division with his parent or guardian in a residence that is fifteen miles or more by road or rail from a secondary school in which the subject of French, taught as a subject for students who normally speak the French language, is offered as one of the subjects of the courses of study, an elementary school board may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, when not so provided by the secondary school board, board, lodging and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the secondary school that the pupil attends, or may furnish transportation for such pupil in lieu thereof. 1968, c. 121, s. 11 (4).

Boarding of elementary school pupils residing in territorial district

(12) Where a pupil resides in a territorial district but not in a school section or a separate school zone, with his parent or guardian in a residence from which daily transportation to and from an elementary school that he may attend is impracticable due to distance or terrain, as certified by the supervisory officer of the elementary school nearest such residence, the board of the elementary school that he attends may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the elementary school that the pupil attends. 1968, c. 121, s. 11 (5), *amended*.

Boarding of elementary school pupils where transportation impracticable

(13) Where a pupil resides in a school section or a separate school zone with his parent or guardian in a residence from which daily transportation to and from an elementary school that he may attend is impracticable due to distance or terrain, as certified by the supervisory officer who has jurisdiction in the school section or the separate school zone, the board of the elementary school of which he is a resident pupil may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging and transportation once a week from his residence to school and return, in an amount set by the board for each day of attendance as certified by the principal of the elementary school that the pupil attends.

(14) For the purpose of certifying attendance under subsections 8 to 13, the principal may add to the number of days of attendance of a pupil the number of days the pupil is absent by reason of being sick or is absent for any other cause if the principal is of the opinion that the absence was unavoidable. 1968-69, c. 114, s. 7. Certification of attendance

43.—(1) A board, by resolution, may provide pensions for employees or any class thereof by contract either with Her Majesty in accordance with the *Government Annuities Act* (Canada) or with an insurer licensed under *The Insurance Act* or with both Her Majesty and such an insurer in the manner and subject to the conditions set out in paragraph 64 of section 352 of *The Municipal Act* and the provisions of the said paragraph 64 apply *mutatis mutandis*. R.S.O. 1960, c. 361, s. 38 (1); 1965, c. 118, s. 7 (1). Pensions R.S.C. 1952, c. 132 R.S.O. 1970, cc. 224, 284

(2) In this section, "employee" does not include a teacher or supervisory officer or an administrative officer who holds a certificate of qualification as a teacher and who is eligible to contribute to the Teachers' Superannuation Fund. R.S.O. 1960, c. 361, s. 38 (2), *amended*. Interpretation

(3) An employee of a divisional board of education who was a contributor or who was entitled to be a contributor under *The Ontario Municipal Employees Retirement System Act*, by reason of his employment with a former board on the 31st day of December, 1968, shall continue to be a contributor or to be entitled to be a contributor, as the case may be, and the divisional board shall assume in respect of such employee all the rights and obligations of the former board, but in respect of other employees, the divisional board, before such employees may participate under such Act, shall pass a resolution electing to become a participant under such Act, as required by the regulations made thereunder, and stating the effective date. Application of R.S.O. 1970, c. 324, to employees of newly organized board

(4) A divisional board of education that is required to make the contribution of a former board to an approved pension plan, as defined in section 250 of *The Municipal Act*, in respect of an employee who was a contributor to such approved pension plan on the 31st day of December, 1968, shall assume all the rights and obligations of such former board under the approved pension plan in respect of such employee. 1968, c. 121, s. 12. Assumption by board of rights and obligations of former board

44.—(1) A board, by resolution, may establish a system of sick leave credit gratuities for employees or any class thereof provided that on the termination of his employment no employee is entitled to more than an amount equal to his salary, wages or other remuneration for one-half the number of days standing to his credit and in any event not in excess of the amount of one-half Sick leave credits

year's earnings at the rate received by him immediately prior to termination of employment.

Allowing of credits on transfer of employment

(2) Where an employee of a board that has established a sick leave credit plan under this or any other general or special Act becomes an employee of another board that has also established a sick leave credit plan under this or any other general or special Act, the latter board shall, subject to the limitation in subsection 4, place to the credit of the employee the sick leave credits standing to the credit of the employee in the plan of the first-mentioned board.

Idem
R.S.O. 1970, c. 118

(3) Where an employee of a municipality or a local board as defined in *The Department of Municipal Affairs Act*, except a school board, that has established a sick leave credit plan under any general or special Act becomes an employee of a board that has established a sick leave credit plan under this or any other general or special Act, the board shall, subject to the limitation in subsection 4, place to the credit of the employee the sick leave credits standing to the credit of the employee in the plan of such municipality or local board.

Limitation

(4) The amount of sick leave credits placed to the credit of an employee under subsection 2 or 3 shall not exceed the amount of cumulative sick leave credits permitted under the plan to which the credits are placed.

Application of subss. 2, 3, where intervening employment

(5) Subsections 2 and 3 apply only where the transfer of employment from a school board to another school board or from a municipality or a local board to a school board is made without intervening employment that interrupts the continuity of employment under which sick leave credits are accumulated. 1967, c. 90, s. 13.

Exception

(6) Notwithstanding subsection 5, intervening employment with the Department of Education does not preclude the application of subsections 2 and 3. 1968, c. 121, s. 13.

Retirement allowances

45.—(1) A board may grant an annual retirement allowance, payable weekly, monthly or otherwise for such period as the board may determine, to any employee of the board who has been in the service of the board for at least twenty years and who,

(*a*) is retired because of age; or

(*b*) while in the service has become incapable through illness or otherwise of efficiently discharging his duties,

provided that no retirement allowance shall be granted under this section which, together with the amount of any pension payments payable to the employee in any year under a pension plan of the board or any municipality or under *The Teachers' Superannuation Act*, will exceed three-fifths of his average annual salary for the

R.S.O. 1970, c. 455

preceding three years of his service. R.S.O. 1960, c. 361, s. 40 (1); 1960-61, c. 92, s. 3; 1968-69, c. 114, s. 8 (1).

(2) Where an employee, Widow or widower

(*a*) has been granted an annual retirement allowance under subsection 1 and subsequently dies; or

(*b*) would have been eligible, except for his death, for such an allowance,

the board may grant to the widow or widower of such employee for such period as the board may determine an annual allowance, not exceeding one-half of the maximum allowance that may be granted under subsection 1. 1968-69, c. 114, s. 8 (2).

(3) In subsection 1, "pension payments" means, in the case of pension payments under a board or municipal plan, only such payments that result from joint contributions of the employer and employee and does not include any such payments that result solely from contributions of the employee. Interpretation

(4) Where the board has a pension plan in operation, or where a municipality has a pension plan in operation in which the employees of the board are included, this section applies only to employees who are in the employ of the board on or before the 1st day of July, 1954, and in any event does not apply to any employee who enters the service of the board after the 1st day of July, 1956. R.S.O. 1960, c. 361, s. 40 (2, 3). Limitation on application of section

46.—(1) A board may by resolution provide, by contract either with an insurer licensed under *The Insurance Act* or with an association registered under *The Prepaid Hospital and Medical Services Act*, Insurance, hospitalization, etc. R.S.O. 1970, cc. 224, 360

(*a*) group life insurance for employees or any class thereof;

(*b*) group accident insurance or group sickness insurance for employees or any class thereof and their wives and children; and

(*c*) hospital, medical, surgical, nursing or dental services or payment therefor for employees or any class thereof and their wives and children,

and may provide for contributing toward the cost thereof.

(2) A board may by resolution provide for contributing toward the cost to employees of the plan of hospital care insurance provided for under *The Hospital Services Commission Act*. R.S.O. 1960, c. 361, s. 41 (1, 2). Contributions re Ontario hospital care plan R.S.O. 1970, c. 209

(3) No resolution under this section authorizes contributions by the board in excess of twice the total of those made by the employees. R.S.O. 1960, c. 361, s. 41 (3); 1968, c. 121, s. 14. Contributions

Open meetings of school boards

47.—(1) The meetings of a school board, except meetings of a committee of the board including a committee of the whole board, shall be open to the public and no person shall be excluded therefrom except for improper conduct.

Exclusion of persons

(2) The presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. R.S.O. 1960, c. 361, s. 42.

First meetings

48.—(1) Except as otherwise provided in any Act,

(*a*) where a board is elected or appointed on or after the 1st day of April in any year, it shall hold its first meeting at 8 p.m. on the second Wednesday in January of the following year; and

(*b*) where a board is elected or appointed on or after the 1st day of January and before the 1st day of April in any year, it shall hold its first meeting at 8 p.m. on the second Wednesday following the election or appointment of the board.

Supervisory officer may provide for calling first meeting

(2) Notwithstanding subsection 1, on the petition of a majority of the trustees of a newly elected or appointed board, the appropriate supervisory officer may provide for calling the first meeting of the board at some other time and date.

When board deemed appointed

(3) A board shall be deemed to be appointed when a majority of the members to be appointed has been appointed. 1961-62, c. 130, s. 4.

Presiding officer

(4) At the first meeting in each year, the secretary shall preside until the election of the chairman or, if there is no secretary or in his absence, the members present shall elect one of themselves to preside at the election of the chairman, and the member so selected to preside may vote as a member.

Election of chairman

(5) At the first meeting in each year and at the first meeting after a vacancy occurs in the office of chairman, the members shall elect one of themselves to be chairman, and the chairman shall preside at all meetings.

Where equality of votes

(6) In the case of an equality of votes at the election of a chairman or vice-chairman, the candidates shall draw lots to fill the position of chairman or vice-chairman, as the case may be.

Vice-chairman

(7) The members of the board may also elect one of themselves to be vice-chairman and he shall preside in the absence of the chairman.

Temporary chairman

(8) If at any meeting there is no chairman or vice-chairman present, the members present may elect a chairman for that meeting. R.S.O. 1960, c. 361, s. 43, (2-6).

Temporary secretary

(9) In the absence of the secretary from any meeting, the

chairman or other member presiding may appoint any member or other person to act as secretary for that meeting. R.S.O. 1960, c. 361, s. 43 (8).

Quorum

(10) The presence of a majority of all the members constituting a board is necessary to form a quorum, except that when a board of education is dealing with matters that affect public schools exclusively, the presence of a majority of the members elected to the board of education by the public school electors is necessary to form a quorum. 1968-69, c. 114, s. 9 (1).

Chairman voting; equality of votes R.S.O. 1970, c. 425

(11) Subject to subsection 7 of section 29 of *The Secondary Schools and Boards of Education Act*, the presiding officer, except where he is the secretary of the board and is not a member, may vote with the other members of the board upon all questions, and any question on which there is an equality of votes shall be deemed to be negatived. R.S.O. 1960, c. 361, s. 43 (10); 1965, c. 118, s. 8; 1968-69, c. 114, s. 9 (2).

Subsequent meetings

(12) Subsequent meetings of the board shall be held at such time and place as the board considers expedient.

Special meetings

(13) Subject to the provisions of the Act under which the board is established, special meetings of the board may be called by the chairman and in such other manner as the board may determine. R.S.O. 1960, c. 361, s. 43 (11, 12).

Declaration

49.—(1) Except as provided in subsection 2, every person elected or appointed to a board, on or before the day fixed for the first meeting of the new board, shall make and subscribe the following declaration before the secretary of the board or before any person authorized to administer an oath and in default he shall be deemed to have resigned:

DECLARATION

I, *A.B.*, do solemnly declare that:

1. I am not disqualified under any Act from being a member of (*name of board*).

2. I will truly, faithfully, impartially and to the best of my ability execute the office of trustee, and that I have not received and will not receive any payment or reward or promise thereof for the exercise of any partiality or malversation or other undue execution of the said office.

Declared before me at .....in the County or District of .....this .....day of ....., 19.. } *A.B.*

Idem

(2) Where a person is elected or appointed to fill a vacancy on a board, he shall make such declaration on or before the day fixed for holding the first meeting of the board after his election or appointment and in default he shall be deemed to have resigned.

Oath of allegiance

(3) Every person elected or appointed to a board, before entering on his duties as a trustee, shall take and subscribe before the secretary of the board or before any person authorized to administer an oath the oath of allegiance in the following form:

I, *A.B.*, do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth II (*or the reigning sovereign for the time being*).

Sworn before me at .....in the County or District of.....this .....day of ....., 19.. } *A.B.*

Filing of declaration and oath

(4) The declaration and oath of allegiance shall be filed with the secretary of the board within eight days after the making or taking thereof, as the case may be. R.S.O. 1960, c. 361, s. 44.

Resignation of trustees

50.—(1) A trustee of a board, with the consent of a majority of the trustees present at a meeting, entered upon the minutes of it, may resign as trustee, but he shall not vote on a motion as to his own resignation and may not resign as trustee if his resignation will reduce the number of trustees of the board to less than a quorum. 1966, c. 140, s. 9.

Resignation to become candidate for some other office

(2) Notwithstanding subsection 1, where it is necessary for a trustee of a board to resign to become a candidate for some other office, he may resign by filing his resignation, including a statement that he is resigning for the purpose of becoming a candidate for some other office, with the secretary of the board and the resignation shall become effective on the 31st day of December after it is so filed. 1967, c. 90, s. 14.

Duties of secretary

51. Every secretary of a board shall,

(*a*) keep a full and correct record of the proceedings of every meeting of the board in the minute book provided for that purpose by the board, and ensure that the minutes, when confirmed, are signed by the chairman or presiding member;

(*b*) transmit to the appropriate supervisory officer copies of reports requested by the supervisory officer or the Minister;

(*c*) perform such other duties as may be required of him by the regulations, by any other Act or by the board. R.S.O. 1960, c. 361, s. 45, *amended*.

Security by officers

52.—(1) Every treasurer and collector of a board and, if required by the board, any other officer of a board shall give security for the faithful performance of his duties, and the security shall be deposited for safe keeping as directed by the board.

(2) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company as defined in *The Guarantee Companies Securities Act*. R.S.O. 1960, c. 361, s. 46. Form of security R.S.O. 1970, c. 196

53. Every treasurer of a board shall, Duties of treasurer

(*a*) receive and account for all school moneys;

(*b*) open an account or accounts in the name of the board in such of the chartered banks of Canada or in such other place of deposit, as may be approved by the board;

(*c*) deposit all moneys received by him on account of the board, and not other moneys, to the credit of such account or accounts;

(*d*) disburse all moneys as directed by the board;

(*e*) produce, when required by the board or by auditors or other competent authority, all papers and moneys in his possession, power or control belonging to the board. R.S.O. 1960, c. 361, s. 47.

54. Any person may, at all reasonable hours, inspect the minute book, the audited annual financial report and the current accounts of a board, and the secretary, upon the written request of any person and upon the payment to the board at the rate of 25 cents for every 100 words or at such lower rate as the board may fix, shall furnish copies of them or extracts therefrom certified under his hand. R.S.O. 1960, c. 361, s. 48. Inspection of books and accounts

55.—(1) A school trustee is not eligible for appointment as a supervisory officer or as a teacher by the board of which he is a member. Trustees disqualified as supervisory officers and teachers

(2) A teacher is not eligible to be a member of the board by which he is employed. Teachers disqualified as trustees

(3) A supervisory officer is not eligible for appointment as a teacher by a board or to be a member of a board while he holds the office of supervisory officer. R.S.O. 1960, c. 361, s. 49, *amended*. Supervisory officers disqualified as teachers and trustees

56.—(1) A person is not qualified to be elected as a trustee of a board or to act as a trustee of a board, Disqualification by interest in contract with or claim against board

(*a*) who, either himself or by or with or through another, has an interest in any contract with the board or with any person acting for the board or in any contract for the supply of goods or materials to a contractor for work for which the board pays or is liable directly or indirectly to pay or which is subject to the control or supervision of the board or of an officer of the board, or who has an unsatisfied claim for such goods or materials; or

(*b*) who, either himself or by or with or through another, has any claim, action or proceeding against the board.

Disqualification not to apply in certain cases

(2) Subsection 1 does not apply to a person by reason only,

(*a*) of his being a shareholder in a corporation having dealings or a contract with the board, unless such person is a director, manager, secretary, treasurer, secretary-treasurer or agent or has a controlling interest in such corporation and, for the purpose of determining a controlling interest under this clause, when married persons are living together, the interest of one spouse, if known to the other, is deemed to be also an interest of the other spouse;

(*b*) of his being the proprietor of or otherwise interested in a newspaper or other periodical publication subscribed for by the board or in which an advertisement or notice is inserted in the regular course of business, if the subscription, advertisement or notice is paid for at the usual rate;

(*c*) of his being related by blood or marriage to a person employed by the board;

(*d*) of his being entitled to or receiving, on or after his retirement from employment or service with a board, a pension, retirement allowance, sick leave credit gratuity or any payment in respect of his employment or service with the board; or

(*e*) of his having an interest in a contract or proposed contract or other matter that he may have as a ratepayer or elector or as a user of any service supplied to him by the board in like manner and subject to the like conditions as are applicable in the case of persons who are not trustees.

Contracts by trustees with board voidable

(3) If a trustee of a board in his own name or in that of another and alone or jointly with another enters into a contract with or makes a purchase from or a sale to the board, the contract, purchase or sale as against the board is voidable at the instance of the board or a ratepayer assessed to the support of the school or schools under the jurisdiction of the board. 1967, c. 90, s. 15.

Exceptions

(4) Nothing in this section,

(*a*) prevents a trustee from receiving or being allowed an honorarium or allowance under section 40;

(*b*) prevents a trustee who is an assessor or a collector from receiving or being allowed such remuneration as is provided for under the Act under which he is elected or appointed; or

(*c*) prevents a trustee who is a secretary or treasurer of a rural elementary school board from receiving or being allowed such compensation for his services as may be

approved at, and entered in the minutes of, the annual meeting or at a special meeting of the electors in the case of a public school board, or of the supporters of the school in the case of a separate school board. R.S.O. 1960, c. 361, s. 50 (5); 1961-62, c. 130, s. 5.

Declaring seat vacant

(5) On the complaint of two ratepayers assessed for the support of the school or schools under the jurisdiction of the board, or on the complaint of the remaining trustee or trustees, the judge of the county or district court shall, on proof of the facts, declare the seat vacant and the provisions of the Act under which the board is established, with respect to the filling of vacancies, apply. R.S.O. 1960, c. 361, s. 50 (6).

Seat vacated by conviction, etc.

57.—(1) If a trustee is convicted of an indictable offence, or becomes mentally ill, or absents himself without being authorized by resolution entered in the minutes from the meetings of the board for three consecutive months, or ceases to hold the residence qualification required by the Act under which he was elected or appointed in the case of a public or secondary school board or ceases to reside within the separate school zone in the case of a separate school board, he *ipso facto* vacates his seat, and the provisions of the Act under which the board is established, with respect to the filling of vacancies, apply. 1965, c. 118, s. 9.

Proviso

(2) Notwithstanding subsection 1, where a trustee is convicted of an indictable offence, the vacancy shall not be filled until the time for taking any appeal that may be taken from the conviction has elapsed, or until the final determination of any appeal so taken, and in the event of the quashing of the conviction the seat shall be deemed not to have been vacated. R.S.O. 1960, c. 361, s. 51 (2).

Idem

58. Where a complaint is made in writing to the appropriate supervisory officer by any two ratepayers assessed for the support of the school or schools under the jurisdiction of the board, or by the remaining trustee or trustees thereof, that any trustee was not, at the time of his election or appointment, qualified to be elected or appointed, or is not competent to act or is disqualified from acting, the supervisory officer may file the complaint with the judge and on proof that the complaint is based on fact, the judge shall declare the seat vacant and the provisions of the Act under which the board is established, with respect to the filling of vacancies, apply. R.S.O. 1960, c. 361, s. 52, *amended*.

Failure to take security

59. If a board refuses or neglects to take proper security from the treasurer or other person to whom it entrusts school moneys, and any school money is forfeited or lost in consequence of the refusal or neglect, every member of the board is personally liable for such moneys which may be recovered by the board, or by any ratepayer assessed for the support of the school or schools under the jurisdiction of the board suing on behalf of himself and all

other such ratepayers, in a court of competent jurisdiction, but no member is liable if he proves that he made reasonable efforts to procure the taking of the security. R.S.O. 1960, c. 361, s. 53.

Biennial or triennial elections

60.—(1) Notwithstanding any other Act, where the council of a municipality is required to conduct the election of trustees for a board, except a county or district combined separate school board and a divisional board of education that is not a divisional board of education of a defined city, and biennial or triennial elections have been provided for members of council, the trustees shall be elected biennially or triennially in the same year as the members of council and shall hold office for two or three years, as the case may be. 1966, c. 140, s. 1, *part*; 1968-69, c. 114, s. 10 (1).

Trustees in office before first biennial or triennial election

(2) All elected trustees in office in the year in which the nomination meeting is to be held in respect of the first biennial or triennial election of trustees cease to hold office at the end of that year. 1966, c. 140, s. 10, *part*.

PART V

SCHOOL SITES

Board may purchase or expropriate

R.S.O. 1970, c. 430

61.—(1) Subject to the provisions of *The Separate Schools Act* as to the selection of a site by a rural school board, every board may acquire by purchase or otherwise or may expropriate any land described in a resolution of the board declaring that the land is required for a school site or for the enlargement of a school site. R.S.O. 1960, c. 361, s. 65 (1); 1967, c. 90, s. 18.

Acquiring land in adjoining township

(2) The board of education for a city or town may acquire by purchase or otherwise, or may expropriate, land in a township for the purposes of a school site where the land adjoins a boundary between the city or town and the township.

Land not to be exempt from taxation

(3) Where a board of education expropriates land under subsection 2, the land is not exempt from taxation by the township, but the corporation of the township and the board of education may agree upon a fixed annual sum to be paid as taxes upon the land, or in case of disagreement, the amount shall be determined by the judge. R.S.O. 1960, c. 361, s. 65 (2, 3).

Purchase of school site in adjoining section or district

62. A public school board, board of education or secondary school board, with the approval of the Minister, may purchase a school site and purchase or build a school building thereon in an adjoining school section or secondary school district, as the case may be, for the purpose of operating a school therein. 1965, c. 118, s. 13; 1967, c. 90, s. 19.

63.—(1) A board of a city or town may acquire by purchase or otherwise any land in an adjacent municipality that the board considers desirable to acquire in view of the probable further extension of the limits of the city or town so as to include the land, but no land shall be acquired under this section at a greater distance than five miles from the limits of the city or town. Acquiring land outside city or town for future school sites

(2) All land acquired under subsection 1, so long as it is held by the board, is subject to municipal assessment and taxation in the municipality in which it is situated. Assessment and taxation

(3) Nothing in subsection 1 shall be deemed to authorize the expropriation of land in another municipality by a board of a city or town. Expropriation not authorized

(4) So long as land acquired by a board of a city or town under subsection 1 is held by the board, no school building or other permanent improvement shall be constructed on such land until the land is included within the limits of the school section under the jurisdiction of the board. Building on land prohibited

(5) Where a board has acquired land in another municipality under subsection 1, and the land appears to the board to have become undesirable for school purposes, the board may sell, lease or otherwise dispose of the land as it considers expedient. R.S.O. 1960, c. 361, s. 66. Power to dispose of sites so acquired

64.—(1) A board that had an average daily enrolment of 10,000 or more in the preceding year in the schools under its jurisdiction may acquire by purchase or otherwise land in any municipality for the purpose of erecting a natural science school, and may build and operate such a school thereon. 1965, c. 118, s. 14, *part*; 1967, c. 90, s. 20; 1968, c. 121, s. 16. Natural science schools

(2) All land acquired by a board under subsection 1, so long as it is held by the board and is not situated in the school section, separate school zone or secondary school district, as the case may be, in which the board has jurisdiction, is subject to municipal assessment and taxation in the municipality in which it is situated. Taxation

(3) Where a board builds and operates a natural science school, it may conduct a natural science and conservation program in co-operation with a conservation authority. 1965, c. 118, s. 14, *part*. Programs

65.—(1) Every corporation, tenant in tail or for life, guardian, executor, administrator, committee and every trustee, not only for and on behalf of himself, his heirs and successors, but also for and on behalf of those he or they may represent, whether married women, infants, unborn issue, mentally incompetent persons or mentally defective persons, or other persons, seized, Who may sell and convey to board

possessed of or interested in any land may contract for, sell and convey all or part thereof or any interest therein to a board for a school site or for an enlargement of or addition to a school site, and any contract, agreement, sale, conveyance or assurance so made is valid and effectual to all intents and purposes.

Where there is no person who can convey

(2) Where there is no person who under subsection 1 may contract, sell or convey, the Supreme Court may on the application of the board appoint some person to act for and on behalf of the owner for the purposes mentioned in subsection 1 and in any proceedings that may be taken under this Part and may give proper direction concerning the disposition of the purchase money. R.S.O. 1960, c. 361, s. 68.

PART VI

SUPERVISORY OFFICERS

Provincial supervisory officers

66.—(1) The Minister shall determine the number of provincial supervisory officers to be appointed.

Appointment

(2) Provincial supervisory officers shall be appointed by the Lieutenant Governor in Council upon the recommendation of the Minister. 1966, c. 140, s. 12, *amended*.

Supervisory officers

67.—(1) Every divisional board that is required to appoint a director of education, every combined separate school board that is required to appoint a superintendent of separate schools, every board of education for an area municipality as defined in *The Municipality of Metropolitan Toronto Act* and the board of every school section or separate school zone that was a municipal inspectorate on the 31st day of December, 1968 and that is not dissolved on the 1st day of January, 1969, shall employ such supervisory officers as it considers necessary to supervise adequately all aspects of the programs under its jurisdiction, and the persons so employed shall hold the qualifications required by the regulations.

R.S.O. 1970, c. 295

Idem

(2) A board other than a board referred to in subsection 1 may, with the approval of the Minister, appoint one or more supervisory officers who shall hold the qualifications required by the regulations. 1968, c. 121, s. 17 (1, 3).

Appointment of supervisory officers

68.—(1) Where a board appoints one or more supervisory officers, the board,

(*a*) shall designate the title and the area of responsibility of each such officer;

(*b*) shall appoint an English-speaking supervisory officer for schools and classes where English is the language of instruction, and a French-speaking supervisory officer

for schools and classes where French is the language of instruction, or shall arrange with another board or with the Minister for the services of an English-speaking supervisory officer or a French-speaking supervisory officer where such officer is not appointed by the board; and

(*c*) may assign to a supervisory officer such administrative duties, in addition to those prescribed in the regulations, as the board considers expedient.

Approval of Minister

(2) The appointment or removal of a supervisory officer is not effective until approved by the Minister.

Chief executive officer

(3) Where a board appoints a director of education or a superintendent of separate schools, in addition to being the chief education officer, he shall be the chief executive officer of the board. 1968, c. 121, s. 18.

Suspension or removal of supervisory officer by Minister

69.—(1) A supervisory officer may be suspended or removed from office by the Minister for neglect of duty, misconduct, inefficiency or physical infirmity.

Suspension of supervisory officer by board

(2) A supervisory officer appointed by the board may be suspended by the board for neglect of duty, misconduct, inefficiency or physical infirmity, and the secretary of the board shall forthwith report the suspension to the Minister in writing, with a statement of the reasons therefor, and the Minister may remove or confirm the suspension or may remove the person from office and the decision of the Minister is final.

Direction as to payment or forfeiture of salary

(3) The Minister may give such direction as to the payment or forfeiture of the salary of the supervisory officer for the period of suspension, as he considers just.

Supervisory officer removed not to be employed

(4) No person who has been removed from office as a supervisory officer by the Minister shall be appointed or act as a supervisory officer.

Qualification of supervisory officer

(5) A supervisory officer shall hold the qualifications prescribed by the regulations and shall be required to take such courses of training as may be required by the regulations.

Whole time to be given

(6) A supervisory officer shall not accept any other office or employment and may not follow any other profession or calling during his tenure of office as a supervisory officer, without the approval of the Minister.

Salaries of supervisory officers appointed by board

(7) The salary and travelling and other expenses of a supervisory officer appointed by a board shall be fixed by the board and are payable by the board. R.S.O. 1960, c. 361, s. 83, *amended*.

Duties of supervisory officers

70.—(1) Subject to the regulations, it is the duty of a supervisory officer,

inspire teachers and pupils

(*a*) to bring about improvement in the work done in the classrooms by inspiring the teachers and pupils and by sympathetically assisting the teachers to improve their practice;

co-operate with boards

(*b*) to assist and co-operate with school boards to the end that the schools may best serve the needs of the children;

visit schools

(*c*) to visit each school in his jurisdiction during the school year and visit each classroom in operation in his jurisdiction as often and for such length of time on each occasion as the Minister may direct;

prepare reports

(*d*) to prepare a report of each school based on the visits made during the year in the form prescribed by the Minister;

report to boards

(*e*) in the case of a supervisory officer of an elementary school, to forward to each board in his jurisdiction a copy of a report on its schools at least once a year;

annual report to Minister

(*f*) on request, to make a general annual report as to the performance of his duties and the condition of the schools in his jurisdiction to the Minister and also to the board in the case of a supervisory officer appointed by the board;

report to M.O.H.

(*g*) to report to the medical officer of health of the municipality any case in which the school buildings or premises are found to be in an unsanitary condition;

report to the Minister

(*h*) to furnish the Minister with information respecting any school in his jurisdiction whenever required to do so;

recommend withholding of grants

(*i*) to recommend the withholding of any portion of the legislative grant,

(i) where the school board has failed to operate its schools or to provide education in a school that is accessible to the pupils for less than six months in the year, except where the school has been closed by order of the medical officer of health or local or provincial health authorities on account of the prevalence of any communicable disease,

(ii) where the board fails to transmit promptly the annual or other school returns properly completed,

(iii) where the board fails to comply with this Act or the regulations,

(iv) where the teacher uses or permits to be used as a text-book, any book not authorized by the regulations,

and in every case to report to the board and to the Minister his reasons for so doing;

(*j*) to discharge such other duties as may be required by the Minister or the regulations; Other duties

(*k*) to deliver to his successor on retiring from office, his official correspondence and all school papers in his custody on the order of the Minister. transfer to successor

(2) Every supervisory officer is directly responsible to the Minister for the performance of his duties under subsection 1. Responsibility, to Minister

(3) Every supervisory officer appointed by a board is also responsible to the board for the administrative duties delegated to him by the board. to board

(4) Where a supervisory officer requires the testimony of a witness as to any alleged fact in any complaint or appeal made to him or to the Minister, he may administer an oath to the witness and he has the like power to take evidence and to enforce the attendance of witnesses and the production of documents as a court has in civil cases. R.S.O. 1960, c. 361, s. 84, *amended*. Power to take evidence on oath

PART VII

FINANCE

71.—(1) Notwithstanding the provisions of any general or special Act, a board may by resolution authorize the chairman and secretary-treasurer to borrow from time to time from a chartered bank by way of a promissory note such sums as the board considers necessary to meet the current expenditures of the board until the current revenue has been received. Current borrowings

(2) A board that has jurisdiction only in territory without municipal organization and a separate school board may also borrow, in the manner provided in subsection 1, such sums as the board considers necessary to meet debt charges payable in any year until the current revenue has been received. For debt charges

(3) The amounts that may be borrowed at any one time for the purposes mentioned in subsections 1 and 2, together with the total of any similar borrowings that have not been repaid, shall not exceed the unreceived or uncollected balance of the estimated current revenues of the board, as set forth in the estimates adopted for the year. Limitation

(4) Until such estimates are adopted, the limitations upon borrowing prescribed in this section shall temporarily be calculated upon the estimated revenues of the board, as set forth in the estimates adopted for the next preceding year, less the amount of revenues of the current year already collected. When limitation calculated on estimated revenue

(5) At the time, in any year, that any amount is borrowed under this section, the secretary-treasurer shall furnish to the bank a copy of the resolution authorizing the borrowing, unless he Copy of resolution authorizing borrowing

has previously done so, and as frequently as required by the bank, a statement showing the amount of the estimated revenues of the current year nor yet collected or, where the estimates for the current year have not been adopted, a statement showing the amount of the estimated revenues of the board as set forth in the estimates adopted for the next preceding year and the amount of revenues of the current year already collected, and also showing the total of any amounts borrowed under this section in the current year that have not been repaid.

Estimated revenues

(6) For the purposes of this section, estimated revenues do not include revenues derivable or derived from the sale of assets, borrowings or issues of debentures or from a surplus including arrears of taxes and proceeds from the sale of assets. 1962-63, c. 129, s. 4.

Fees for non-resident pupils, calculation

72.—(1) Where a board provides education for pupils whose fees are receivable from another board, from Canada or from Ontario, the fees shall be calculated by the use of financial data and average daily enrolment in respect of elementary schools or secondary schools, as the case may be, for the year in which such education is provided,

(*a*) by ascertaining the gross current expenditure for the maintenance of the schools under the jurisdiction of the board, excluding expenditure for tuition fees, for daily transportation of pupils to school and return and for board, lodging and transportation once a week to school and return;

(*b*) by ascertaining the total gross revenue from all sources, excluding legislative grants, taxation, tuition fees and costs recoverable from Ontario;

(*c*) by deducting the amount determined under clause *b* from the amount determined under clause *a*;

(*d*) by ascertaining the average daily enrolment as adjusted by the application of the appropriate course weighting factors as prescribed in the regulations for the year in which such education is provided, of pupils at schools under the jurisdiction of the board;

(*e*) by dividing the amount determined under clause *c* by the average daily enrolment as adjusted under clause *d*;

(*f*) by multiplying the average daily enrolment, as adjusted by the application of the appropriate course weighting factors, of pupils whose fees are receivable from another board, from Canada or from Ontario, by the sum of,

(i) the amount determined under clause *e*, and

(ii) the pupil accommodation charge as prescribed in the regulations for the year in which such education is provided.

(2) For the purposes of subsection 1, "average daily enrolment" in respect of elementary schools or secondary schools, as the case may be, means the quotient obtained by dividing the perfect aggregate attendance for a calendar year in respect of such schools by the number of school days in the year. 1968-69, c. 114, s. 13 (1). Average daily enrolment

(3) Notwithstanding subsection 1, where a board provides instruction in a special education class for a pupil, Special education classes

(*a*) whose fee is receivable from another board, from Canada or from Ontario, the fee shall be such as the board may prescribe, but shall not be less than the fee calculated under subsection 1 or more than the product obtained by multiplying the fee calculated under subsection 1 by the ratio of 30 for an elementary school pupil or of 20 for a secondary school pupil, as the case may be, to the maximum enrolment for such special education class under the regulations;

(*b*) whose fee is receivable from a parent or guardian, the fee shall be such as the board may prescribe, but shall not exceed the product obtained by multiplying the fee calculated under subsection 1, except that the financial and attendance data used in the calculation shall be in respect of the year immediately preceding the year in which the pupil is enrolled and under clause *b* of subsection 1 the gross revenue shall not be reduced by legislative grants, by the ratio of 30 for an elementary school pupil or of 20 for a secondary school pupil, as the case may be, to the maximum enrolment for such special education class under the regulations. 1968-69, c. 114, s. 13 (2).

(4) Where a board provides instruction for a pupil in respect of whom fees are required to be paid, other than a pupil whose fees are receivable from another board, from Canada or from Ontario, the fees payable by or on behalf of the pupil shall be such as the board may prescribe, but shall not exceed the fees calculated as provided in subsection 1, except that under clause *b* of subsection 1 the gross revenue shall not be reduced by legislative grants and except that the financial data and attendance used in such calculation shall be in respect of the year preceding the year in which the pupil is enrolled. Fees payable by individuals

(5) The fees payable by a board for the education of pupils shall be paid, when requested by the treasurer of the board that provides the education, on an estimated basis at least quarterly during the year in which the education is provided, with such adjustment as may be required when the actual financial data and attendance for the year have been finally determined, and the estimate shall be not less than the rate per pupil chargeable for a When fees payable by boards

similar period in the preceding year times 90 per cent of the number of such pupils enrolled at the beginning of the current school term. 1968-69, c. 114, s. 13 (3).

Reduction of requisition or rates

73.—(1) Where in any year provision is made by regulation for a grant to a board for the purpose, in such year, of limiting the amount of the requisition for public or secondary school purposes or of limiting the increase in the mill rate for separate school purposes in respect of,

(*a*) a municipality or part thereof; or

(*b*) a part of territory without municipal organization that is deemed to be a district municipality,

under the jurisdiction of the board, the board shall, in such year, notwithstanding the provisions of any other Act, apply the grant to reduce the amount of the requisition that otherwise would be required for public or secondary school purposes or to reduce the mill rate that otherwise would be required to be levied for separate school purposes, as the case may be, in respect of the municipality or part thereof, or the district municipality.

Application of grant

(2) Where, after the audited financial data in respect of a board for a year have been determined, the sum that was required for the actual expenditures for elementary or secondary school purposes of the board from a municipality or part, or district municipality, when reduced by the amount of the grant that is receivable by the board in respect of such municipality or part, or district municipality, pursuant to regulations referred to in subsection 1 differs from the sum that was requisitioned from, or levied in, such municipality or part, or district municipality, the difference shall be added to or subtracted from the sum that is estimated to be required from, or levied in, such municipality or part, or district municipality, for elementary or secondary school purposes in the next following year. 1968-69, c. 114, s. 14.

PART VIII

REDUCTION OF SCHOOL TAXES ON RESIDENTIAL AND FARM ASSESSMENT

74. In this Part,

(*a*) "commercial assessment" means,

(i) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal corporation or local board thereof, and

(ii) business assessment, and

(iii) the assessment for mineral lands, railway lands, other than railway lands actually in use for residential and farming purposes, and pipe lines, and the assessment of telephone and telegraph companies,

according to the last revised assessment roll;

(*b*) "residential and farm assessment" means the assessment for real property except the assessment for real property mentioned in sub-clauses i and iii of clause *a*, according to the last revised assessment roll. 1964, c. 105, s. 11, *part*.

Data furnished, by the municipality

75.—(1) The clerk of a municipality shall in each year furnish to each school board having jurisdiction in the municipality, or any parts thereof, information respecting the total of the commercial assessments and of the residential and farm assessments on which rates for the support of the board will be levied in that year and the amount due and payable in the current year for debt charges on debentures issued by the municipality in respect of the board.

by clerk of county

(2) Where a county has issued debentures for the purposes of a board, the clerk of the county shall in each year furnish information to the board respecting the amount due and payable in the current year for debt charges on such debentures. 1964, c. 105, s. 11, *part*.

Estimates for basis of rates

76.—(1) For the purposes of determining the rates, every school board in preparing its estimates shall include the amount of debt charges due in the current year in respect of the board.

Apportionment of estimates

(2) Every board that is supported by assessment in two or more municipalities or in one or more municipalities and territory without municipal organization shall apportion its estimates as determined under subsection 1 in accordance with the provisions of the Act under which the board operates. 1964, c. 105, s. 11, *part*.

Submission of estimates of board to council

R.S.O. 1970, c. 425

77.—(1) Every public and secondary school board, except a divisional board of education under Part IV of *The Secondary Schools and Boards of Education Act*, shall submit to the council of each municipality in which or part of which the board has jurisdiction, on or before the 1st day of March in each year, a copy of its estimates as determined under section 76. 1964, c. 105, s. 11, *part*; 1968-69, c. 114, s. 15.

Idem

(2) Where the board is supported by assessment in two or more municipalities or in one or more municipalities and territory without municipal organization, it shall indicate to the council of each municipality concerned the amount of the estimates that is to apply to that municipality. 1964, c. 105, s. 11, *part*.

Determination of rates

78.—(1) Rates to be levied for each school board in each municipality and territory without municipal organization shall be determined in the following manner:

1. Add 90 per cent of the residential and farm assessment to the commercial assessment.
2. Multiply the amount estimated by the board under section 76 to be raised by taxation in the municipality or territory without municipal organization by 1000 and divide the product by the total determined under paragraph 1.
3. The rate to be levied on commercial assessment shall be the rate determined under paragraph 2.
4. The rate to be levied on residential and farm assessment shall be 90 per cent of the rate determined under paragraph 2.

Who to determine rates

(2) Except in the case of public and secondary school boards that have jurisdiction only in territory without municipal organization, secondary school boards in the part of the secondary school districts in territory without municipal organization and separate school boards, the rates shall be determined by the council of each municipality for each board that has jurisdiction in the municipality. 1964, c. 105, s. 11, *part*.

Withholding of debenture levy

79.—(1) The council of each municipality shall withhold from the amount levied and collected for a school board sufficient funds to meet the annual debt charges payable in the current year by the municipality in respect of debentures issued for the purposes of the board.

Deficiency payable by board

(2) Where the debt charges payable by a municipality on behalf of a board are more than the amount levied by the municipality for the cost of operation of the board, the board shall make a payment equal to the deficiency to the municipality on or before the date or dates on which the debt charges are payable. 1964, c. 105, s. 11, *part*.

Assessment roll

R.S.O. 1970, c. 32

80. The assessor of each municipality and each assessor in territory without municipal organization, in addition to the particulars required under subsection 1 of section 17 of *The Assessment Act*, shall set down in separate columns the following particulars:

1. the commercial assessment for public school purposes;
2. the residential and farm assessment for public school purposes;
3. the commercial assessment for separate school purposes;

4. the residential and farm assessment for separate school purposes;

5. where two or more secondary school districts, or parts thereof, are situated in the municipality, the secondary school districts and the commercial assessment and residential and farm assessment in each secondary school district. 1964, c. 105, s. 11, *part*.

Levying of school rates

81. The council of every local municipality, every public school board that has jurisdiction only in territory without municipal organization, every divisional board that has jurisdiction in any territory without municipal organization that is deemed a district municipality in a school division, and every separate school board in each year shall levy or cause to be levied on the whole of the assessment for real property and business assessment for public, secondary and separate school purposes, as the case may be, according to the last revised assessment roll, the rates determined for each public, secondary and separate school board having jurisdiction in the municipality, or a part thereof, or in territory without municipal organization, as the case may be. 1968, c. 121, s. 22.

This Part to prevail where conflict

82. In the event of a conflict between any provision in this Part and any provision in any other general or special Act, the provision in this Part prevails. 1964, c. 105, s. 11, *part*.

PART IX

SCHOOL BOARD ADVISORY COMMITTEES

Interpretation

83. In this Part,

(*a*) "board" means a board of education or a board to which any provision of Part III of *The Separate Schools Act* applies and includes the Metropolitan Separate School Board; R.S.O. 1970, c. 430

(*b*) "committee" means a school board advisory committee formed under this Part. 1968-69, c. 114, s. 16, *part*.

Committee establishment

84. A board may establish a school board advisory committee. 1968-69, c. 114, s. 16, *part*.

Composition

85.—(1) The committee shall be composed of,

(*a*) three members of the board appointed by the board;

(*b*) the chief education officer of the board or his nominee;

(*c*) six teachers employed by the board, appointed by the teachers in the employ of the board;

(*d*) four persons appointed by the board who are neither teachers nor members of a board, but who are resident within the jurisdiction of the board; and

(*e*) the persons appointed under subsections 2 and 3.

Separate school board

(2) In the case of a separate school board, where the Diocesan Council or Councils of the Federation of Catholic Parent-Teacher Associations of Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint to the committee two persons selected by the Council or Councils.

Board of education

(3) In the case of a board of education,

(*a*) where the Diocesan Council or Councils of the Federation of Catholic Parent-Teacher Associations of Ontario organized in the area of jurisdiction of the board so recommends, the board shall appoint to the committee one person selected by the Council or Councils;

(*b*) where the Home and School Council organized in the area of jurisdiction of the board so recommends, the board shall appoint to the committee one person selected by the Council; and

(*c*) where no recommendation and appointment is made under clause *a*, a recommendation and appointment of two persons may be made under clause *b* and, where no recommendation and appointment is made under clause *b*, a recommendation and appointment of two persons may be made under clause *a*.

Notice of teacher appointees

(4) The teachers shall submit to the board, not later than the 31st day of January in each year, the names of the appointees under clause *c* of subsection 1.

Appointment and term of office

(5) Members of the committee shall be appointed on or before the 31st day of January in each year and shall hold office for one year.

Reappointment

(6) Except for the chief education officer, a member of the committee shall not hold office for more than three years in succession.

Vacancies

(7) Every vacancy on a committee occasioned by the death or resignation of a member, or by any other cause, shall be filled by a person qualified under subsection 1 and appointed by the body or person that appointed the member whose office has become vacant, and every person so appointed shall hold office for the unexpired portion of the term of such member.

Application 1970

(8) For the year 1970, the dates referred to in this Part do not apply, but any person appointed to a committee after the 31st day of January in the year 1970 shall hold office until the 31st day of January, 1971. 1968-69, c. 114, s. 16, *part*.

86.—(1) The chairman of the board shall call the first meeting of the committee not later than the 28th day of February in each year, and shall preside at such meeting until the chairman of the committee is elected. First meeting

(2) The chairman of the committee shall be elected by the committee at its first meeting in each year. Chairman

(3) Eight members of the committee constitute a quorum and a vote of the majority of the members present is necessary to bind the committee. Quorum

(4) The committee may establish such sub-committees as it considers necessary. 1968-69, c. 114, s. 16, *part*. Sub-committees

87.—(1) The board shall provide a recording secretary for the committee. Recording secretary

(2) The committee shall, as required by the board, submit to the board for approval a budget of its estimated expenditures for the calendar year. Budget

(3) The board shall pay such expenditures of the committee as are approved by the board. 1968-69, c. 114, s. 16, *part*. Expenditures

88.—(1) The committee may make reports and recommendations to the board in respect of any educational matter pertaining to the schools under the jurisdiction of the board. Powers of committee

(2) Notwithstanding subsection 1, the committee shall not concern itself with salaries of employees of the board or with matters pertaining to personnel problems and policies relating to personnel. Limitation

(3) The board shall consider any report or recommendation submitted to it by the committee and shall not refuse its approval without having given the committee, or its representatives, an opportunity to be heard by the board. 1968-69, c. 114, s. 16, *part*. Consideration of reports

PART X

OFFENCES AND PENALTIES

89. Any person who wilfully makes a false declaration of his right to vote at a school meeting or at an election of trustees is guilty of an offence and on summary conviction is liable to a fine of not more than $25. R.S.O. 1960, c. 361, s. 85. False declaration of right to vote

90. Any person who wilfully interrupts or disquiets the proceedings of a school meeting or a school by rude or indecent behaviour or by making a noise either in the place where the Disturbances

meeting is held or in the school or so near thereto as to interfere with the proceedings of the meeting or the order of exercises of the school is guilty of an offence and on summary conviction is liable to a fine of not more than $25. R.S.O. 1960, c. 361, s. 86.

Refusal to serve

91.—(1) A trustee who refuses to serve after being elected or appointed with his own consent is guilty of an offence and on summary conviction is liable to a fine of $25.

Failure to perform duties

(2) A trustee who has been elected or appointed and has not refused to accept the office and who at any time refuses or neglects his duties as trustee is guilty of an offence and on summary conviction is liable to a fine of not more than $25.

Acting while disqualified

(3) A trustee who sits or votes at any meeting of the board after becoming disqualified is guilty of an offence and on summary conviction is liable to a fine of not more than $25 for every meeting at which he so sits or votes. R.S.O. 1960, c. 361, s. 87.

Failure to transmit minutes

92. The chairman of a rural school meeting who neglects to transmit to the supervisory officer concerned a minute of the proceedings of any annual or other rural school meeting over which he has presided, within ten days after the holding of the meeting, is guilty of an offence and on summary conviction is liable to a fine of not more than $25. R.S.O. 1960, c. 361, s. 88, *amended*.

Information to auditors

93. Every school board and its secretary and treasurer shall furnish the auditors with any papers or information in its or his power that may be required of it or him relating to the school accounts and a member of the board, or a secretary or treasurer, who neglects or refuses so to do is guilty of an offence and on summary conviction is liable to a fine of not more than $25, but no member is liable if he proves that he made reasonable efforts to procure the furnishing of the papers or information. R.S.O. 1960, c. 361, s. 89.

False reports and registers

94. Every trustee who knowingly signs a false report and every teacher who keeps a false school register or makes a false return is guilty of an offence and on summary conviction is liable to a fine of not more than $25. R.S.O. 1960, c. 361, s. 90.

Failure to call school meeting

95. If an annual or other rural public school meeting has not been held for want of the proper notice, every trustee or other person whose duty it was to give notice is guilty of an offence and on summary conviction is liable to a fine of not more than $25. R.S.O. 1960, c. 361, s. 91.

Delivery up of books and money

96.—(1) A treasurer, secretary or secretary-treasurer, or a person having been a treasurer, secretary or secretary-treasurer,

and a trustee or other person who has in his possession any book, paper, chattel or money that came into his possession as such treasurer, secretary, secretary-treasurer, trustee or otherwise shall not wrongfully withhold, or neglect or refuse to deliver up, or account for and pay over the same to the person and in the manner directed by the board or by other competent authority.

Summons for appearance

(2) Upon application to the judge by the board, supported by affidavit, showing such wrongful withholding or refusal, the judge may summon the treasurer, secretary, secretary-treasurer, trustee or person to appear before him at a time and place appointed by him. R.S.O. 1960, c. 361, s. 93 (1, 2).

Service of summons

(3) A bailiff of a small claims court, upon being required so to do by the judge, shall serve the summons or a true copy thereof on the person complained against personally or by leaving it with a grown-up person at his residence. R.S.O. 1960, c. 361, s. 93 (3), *amended*.

Order to account

(4) At the time and place so appointed, the judge, if satisfied that service has been made, shall, in a summary manner, and whether the person complained against does or does not appear, hear the complaint, and if he is of the opinion that it is well founded may order the person complained against to deliver up, account for and pay over such book, paper, chattel or money by a day to be named by the judge in the order, together with such reasonable costs incurred in making the application as the judge may allow. R.S.O. 1960, c. 361, s. 93 (4).

Effect of non-compliance with judge's order

(5) In the event of non-compliance with the order, the judge may order such person to be forthwith arrested by the sheriff of any county or district in which he may be found, and to be committed to a correctional institution in the county, district or judicial district in which he resides, there to remain without bail until the judge is satisfied that he has delivered up, accounted for or paid over the book, paper, chattel or money in the manner directed by the board or other competent authority. R.S.O. 1960, c. 361, s. 93 (5), *amended*.

Discharge on complying with order

(6) Upon proof of his having so done, the judge shall make an order for his discharge and he shall be discharged accordingly.

Discharge on terms

(7) Upon proof that the person has done all in his power to deliver up, account for or pay over such book, paper, chattel or money as directed, the judge may order his discharge on such terms or conditions as he considers just.

Other remedy not affected

(8) Such proceedings do not impair or affect any other remedy that the board or other competent authority may have against the person complained against or against any other person. R.S.O. 1960, c. 361, s. 93 (7, 8).

Compelling delivery of books, money, etc. on dissolution of school corporation

97.—(1) Section 96 applies to the case of any person who has in his possession any books, paper, chattel or money that came into his possession as secretary, or treasurer, or member, or otherwise, of a board that has been dissolved, and every such person shall deliver up, account for and pay over every such book, paper, chattel and all such money to the person and in the manner provided in or under the Act under which the board is dissolved and failing any such provision as directed by the Minister, and in default of his so doing, proceedings may be taken against him by two ratepayers in the same manner as in the case provided for by section 96, and that section *mutatis mutandis* applies.

Application of subs. 1

(2) Subsection 1 applies to every person who has received from such secretary, treasurer, trustee or other person any book, paper, chattel or money, which by subsection 1 it is declared to be the duty of such secretary, treasurer, trustee or other person to deliver up, and the like proceedings may be taken against such first-mentioned person. R.S.O. 1960, c. 361, s. 94.

No supervisory officer, trustee, teacher etc., to act as agent for the sale of books, maps, etc.

98.—(1) No teacher, trustee, supervisory officer or other person officially connected with the Department or with any elementary or secondary school or with any teachers' college or other institution that is under the management or control of the Minister, shall sell or become or act as agent for any person to sell or to promote in any way the sale of any school library, prize or text-book, map, chart, school apparatus, furniture, stationery or other article for the use of any elementary or secondary school, teachers' college or other institution aforesaid or for the use of any pupil thereof, nor shall he receive directly or indirectly compensation or other remuneration or the equivalent for so doing.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable, if he is a teacher to a fine of not more than $50, if he is a trustee to a fine of not more than $100, if he is a supervisory officer to a fine of not more than $500 and if he is any other person so officially connected to a fine of not more than $100.

Idem

(3) Any person, firm or corporation and any agent of a person, firm or corporation who employs a teacher, trustee, supervisory officer or any other person officially connected with the Department or with any elementary or secondary school or with any teachers' college or other institution that is under the management or control of the Minister, to sell or become or act as agent for or to promote in any way the sale of any school library, prize or text-book, map, chart, school apparatus, furniture, stationery or other article for the use of any elementary or secondary school, teachers' college or other institution aforesaid, or who directly or indirectly gives or pays to any such teacher, trustee, supervisory officer or other person compensation or remuneration or the

equivalent thereof is guilty of an offence and on summary conviction is liable to a fine of not more than $500.

Gifts, etc., to be *prima facie* evidence

(4) Any gift or payment made to a teacher, trustee, supervisory officer or other person so officially connected by any person firm or corporation interested either as principal or agent in any such sale is *prima facie* evidence of a contravention of this section.

Consent of Minister of Justice and Attorney General to prosecution

(5) No prosecution under this section shall be instituted without the written consent of the Minister of Justice and Attorney General or the Deputy Minister of Justice and Deputy Attorney General.

Sale in ordinary course of business excepted

(6) This section does not apply to sales made by a trustee who is a merchant or bookseller in the ordinary and regular course of his business as such and made at his shop or place of business. R.S.O. 1960, c. 361, s. 95, *amended*.

Application

(7) This section does not apply to a teacher, trustee, supervisory officer or any other person who is the author of a book in respect of which the only compensation that he receives is a fee or royalty thereon. 1960-61, c. 92, s. 4, *amended*.

PART XI

MISCELLANEOUS

Saving

99.—(1) Nothing in section 43 affects any pension plan established and approved by the Minister before the 6th day of April, 1954 under section 39 of *The High Schools Act*, section 129 of *The Public Schools Act* or section 83 of *The Separate Schools Act*.

R.S.O. 1950, cc. 165, 316, 356

Idem

(2) Nothing in section 44 affects any sick leave credit plan established and approved by the Minister before the 6th day of April, 1954 under section 40 of *The High Schools Act*, section 130 of *The Public Schools Act* or section 84 of *The Separate Schools Act*.

Idem

(3) Nothing in section 45 affects any retirement allowance granted before the 6th day of April, 1954 under section 60 of *The High Schools Act* or section 128 of *The Public Schools Act*. R.S.O. 1960, c. 361, s. 96.

Share of licence fees for trailers to be paid to boards

100.—(1) Except as provided in subsection 2, where a trailer is located in a trailer camp or elsewhere in a municipality and licence fees are collected for the trailer or for the land occupied by the trailer in a trailer camp in any year, the council of the municipality shall pay,

(*a*) to the public school board having jurisdiction in the school section in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for public school purposes, including township grants, bears to the

total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes; and

(*b*) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected in the same proportion as the rate levied in that part of the municipality for secondary school purposes bears to the total of the rates levied in that part of the municipality for public and secondary school purposes and municipal purposes.

Idem

(2) Where the occupant of a trailer has given to the clerk of the municipality in which the trailer is located a notice in writing stating that he is a Roman Catholic and desires to be a supporter of a separate school that is situated within three miles of the trailer and within the municipality or a municipality contiguous thereto, the council of the municipality shall pay,

(*a*) to the board of the separate school a share of the licence fees collected with respect to such trailer in the same proportion as the rate levied for separate school purposes in that part of the municipality that is within three miles of the separate school bears to the total of the rates levied in such part of the municipality for separate and secondary school purposes and municipal purposes; and

(*b*) to the secondary school board having jurisdiction in the secondary school district in which the trailer is located a share of the licence fees collected with respect to such trailer in the same proportion as the rate levied for secondary school purposes in such district bears to the total of the rates levied for separate and secondary school purposes and municipal purposes in that part of the district within three miles of the separate school.

Application to municipally-operated camps

(3) This section does not apply to trailer camps and trailer parks operated by a municipality. R.S.O. 1960, c. 361, s. 97.

Trailer fee in public school section in unorganized territory

101.—(1) Except as provided in subsection 2, the owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a public school section shall pay to the public school board, on or before the first day of each month, a fee of $3 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Trailer fee re separate school in unorganized territory

(2) Where the occupant of a trailer that is located in territory without municipal organization is a Roman Catholic and signifies in writing to the separate school board and if the trailer is located in a public school section to the secretary of the public school

board that he is a Roman Catholic and wishes to be a supporter of the separate school that is within three miles of the trailer, the owner or lessee of the trailer shall pay to the separate school board, on or before the first day of each month, a fee of $3 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Trailer fee in secondary school district in unorganized territory

(3) The owner, lessee or person having possession of a trailer that is located in territory without municipal organization in a secondary school district shall pay to the secondary school board, on or before the first day of each month, a fee of $2 in respect of such trailer for each month or part thereof, except July and August, that the trailer is so located.

Notice

(4) No person is required to pay a fee under this section until he has been notified in writing by the secretary of the board concerned or the tax collector that he is liable to pay such fee and upon receipt of such notice the person shall forthwith pay all fees for which he has been made liable under this section before receipt of the notice and shall thereafter pay fees in accordance with subsections 1 to 3.

Content of notice

(5) Every notice under this section shall make reference to this section and shall specify,

(*a*) the amount of fees for which the person is liable on receipt of the notice;

(*b*) the amount of the monthly fee to be paid thereafter;

(*c*) the date by which payment is required to be made;

(*d*) the place at which payment may be made; and

(*e*) the fine provided under this section.

Offence

(6) Every owner or lessee or person having possession of a trailer who permits the trailer to be located in any part of territory without municipal organization in which he is liable for any fee under this section without paying the fee as required under this section is guilty of an offence and on summary conviction is liable to a fine of not less than $10 and not more than $50 and each day that this subsection is contravened shall be deemed to constitute a separate offence. R.S.O. 1960, c. 361, s. 98.

Arbitrators to send copy of award to board, etc. R.S.O. 1970, cc. 385, 430, 425

102.—(1) Arbitrators acting under *The Public Schools Act*, *The Separate Schools Act*, *The Secondary Schools and Boards of Education Act* or this Act shall send a copy of their award forthwith after the making thereof to the secretary of the school board and to the clerk of each municipality affected. R.S.O. 1960, c. 361, s. 99 (1).

Liability of parties for costs

(2) Such arbitrators shall determine the costs of the arbitration and shall direct to whom and by whom and in what manner

such costs or any part thereof, and the fees under subsection 4, shall be paid, and such determination and direction is final.

Expenses

(3) An arbitrator is entitled to an allowance of 10 cents for each mile necessarily travelled by him to and from his residence to attend meetings of arbitrators together with his actual expenses for room and meals, incurred while attending such meetings, and such costs shall be included in the costs of the arbitration. 1968, c. 121, s. 19.

Fees

(4) Each arbitrator shall be paid a fee,

(*a*) in the case of the Ontario Municipal Board, as determined by the Board;

(*b*) in the case of an arbitrator other than a supervisory officer, judge or member of the Ontario Municipal Board, at the rate of $10 for each sitting of a half-day or fraction thereof. R.S.O. 1960, c. 361, s. 99 (3), *amended*.

Application

(5) This section does not apply to a Board of Reference or the members thereof. R.S.O. 1960, c. 361, s. 99 (4).

CHAPTER 425

The Secondary Schools and Boards of Education Act

Resident pupils

1. A person is a resident pupil with respect to a secondary school district,

(*a*) if he resides with his parent or guardian in the secondary school district; or

(*b*) if he or his parent or guardian is assessed in the secondary school district as an owner or for business assessment or as an owner and for business assessment for an amount at least equal to the total assessment in the preceding year of property taxable for secondary school purposes in the secondary school district divided by four times the average daily attendance of resident pupils in that year; or

(*c*) if he resides and is assessed in the secondary school district or if he is over eighteen years of age and has resided in the secondary school district for the twelve months immediately before his admission to a secondary school in the secondary school district,

but a person is not a resident pupil under clause *a* if he resides with his parent or guardian on land that is exempt from taxation for school purposes and neither he nor his parent or guardian is assessed for and pays taxes for school purposes in the secondary school district. R.S.O. 1960, c. 362, s. 1 (2); 1960-61, c. 93, s. 1 (1); 1964, c. 106, s. 1 (2); 1966, c. 141, s. 1.

PART I

SECONDARY SCHOOLS

In unorganized territory

2.—(1) The Lieutenant Governor in Council may establish any area in the territorial districts, that is not part of a school division, as a secondary school district, and may discontinue or decrease or increase the area of any such secondary school district, and if any such secondary school district is discontinued, or the area is decreased or increased, the assets and liabilities of the board shall be adjusted or disposed of as determined by the Ontario Municipal Board. R.S.O. 1960, c. 362, s. 12 (4); 1965, c. 119, s. 2 (3); 1968-69, c. 115, s. 2 (5).

Board of education in unorganized territory

(2) Where a secondary school district has been established under subsection 1, the Lieutenant Governor in Council may authorize the formation of a board of education for the district, and may provide for the composition of the board and the term or terms of office of the members thereof, and for all other purposes the provisions of Part III apply to the board. R.S.O. 1960, c. 362, s. 51 (4); 1964, c. 106, s. 11 (1).

Board of education in territorial districts outside school divisions

3.—(1) Where a secondary school district is established under subsection 1 of section 2, the Lieutenant Governor in Council may make regulations providing for,

(*a*) the formation of a board;

(*b*) the apportionment of costs within the secondary school district; and

(*c*) the issuing of debentures by the board for permanent improvements,

and the board is a corporation by the name designated by the Lieutenant Governor in Council. 1968-69, c. 115, s. 10.

Powers and duties

(2) The board shall exercise the powers and duties of a municipal council for that part of the secondary school district that comprises territory without municipal organization with respect to preparing estimates of the sums required during the year, levying rates, collecting taxes and issuing debentures, for secondary school purposes. R.S.O. 1960, c. 362, s. 26 (2); 1964, c. 106, s. 5, *amended*.

Apportionment of costs

(3) In apportioning the costs within the secondary school district, the portion of the secondary school district that comprises territory without municipal organization shall be treated as one municipality. R.S.O. 1960, c. 362, s. 26 (3).

Tax collector

(4) The tax collector appointed by the board for the territory without municipal organization has the same powers as a tax collector in a municipality. R.S.O. 1960, c. 362, s. 26 (4), *amended*.

Rates for first year to be levied on current assessment

(5) In the first year that any territory without municipal organization is included in a secondary school district, the rates for that year shall be levied on the assessment of the property in such territory made in that year. R.S.O. 1960, c. 362, s. 26 (5).

Return of arrears of taxes in unorganized territory

(6) The collector shall, on or before the 8th day of April in the year following the year in which a school rate becomes due and payable, make a return to the sheriff of the district showing each lot or parcel assessed upon which the school rates have not been fully paid, the name of the person assessed as owner or occupant and the amount of school rates chargeable against the lot or parcel and in arrear at the date of the return, with the year for which the rates so in arrear were imposed.

(7) The sheriff shall enter in a book to be kept by him for that purpose the particulars furnished by the collector. Entry in sheriff's book

(8) The collector shall not receive any payment on account of school rates so in arrear after the expiration of two years from the date when the rates became due, but, in the case of payments made before the expiration of that period, the collector shall forthwith notify the sheriff thereof and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him. Payment of arrears thereafter

(9) After the expiration of such period, all such arrears are payable to the sheriff, who shall enter all payments in the book kept by him and who shall return the amount paid to the treasurer of the board. When arrears to be paid to sheriff

(10) When it appears from the entries in the book kept by the sheriff that any school rate is in arrear for three years from the 31st day of December in the year in which the rate became payable, the sheriff shall proceed to collect such rate by the sale of the lands assessed, and the procedure in relation to such sale and the provisions applicable to purchase by the municipality and to the redemption of lands thereafter and to deeds to be given by the sheriff to tax purchasers shall be the same as nearly as may be as in the case of the sale of lands for arrears of taxes in organized municipalities, and the board may in such cases exercise the power of purchase conferred upon a municipality. 1960-61, c. 93, s. 3. Sale of land for arrears

(11) Where the tax arrears procedures under *The Department of Municipal Affairs Act* are in effect in a secondary school district, it is not necessary for the collector to furnish to the sheriff any of the information or statements required under this section in respect of tax arrears, and the powers and duties of the sheriff in respect of tax arrears and tax sales do not apply in respect of the secondary school district, and all the powers and duties of the sheriff in respect of arrears of taxes are vested in the treasurer of the board. 1962-63, c. 130, s. 6. Where tax arrears procedures of R.S.O. 1970, c. 118, in effect

4.—(1) Where, in the opinion of the Minister, it is desireable to establish and maintain a secondary school on lands held by the Crown in right of Canada or Ontario, or an agency thereof, or on other lands that are exempt from taxation for school purposes, the Minister may designate any portion of such lands as a secondary school district, and may appoint as members of the board such persons as he considers proper, and the board so appointed is a corporation by the name indicated in the order establishing the secondary school district, and has all the authority of a secondary school board for the purposes of this Act. R.S.O. 1960, c. 362, s. 12 (5), *amended*. On exempt land

(2) Where a secondary school district has been established under subsection 1, the Minister may authorize the formation of a Board of education for secondary school district on exempt lands

board of education for the district, and may provide for the composition of the board and the term or terms of office of the members thereof, and for all other purposes the provisions of Part III apply to the board. 1964, c. 106, s. 11 (2).

Trustee, qualification

5.—(1) Subject to subsection 2, a person is qualified to be elected or appointed as a trustee of a secondary school board,

(*a*) who is a Canadian citizen;

(*b*) who is of the full age of twenty-one years;

(*c*) who is a resident in the secondary school district; and

(*d*) who is a ratepayer of the secondary school district. 1962-63, c. 130, s. 5, *part*, *amended*.

dis-qualification

(2) A person is not qualified to be elected or appointed as a trustee of a secondary school board,

(*a*) who is,

(i) a member of any other elementary school board or board of education, or

(ii) a member of the council of a municipality or county all or part of which is included in the secondary school district, or

(iii) an elected member of a local board of a municipality or county all or part of which is included in the secondary school district,

and whose term of office has at least two months to run after the day on which the nomination meeting for a new election is to be held unless before the opening of the nomination meeting he has filed his resignation with the secretary of the other school board or with the clerk of the municipality or county, as the case may be, or

(iv) on the effective date of his election or appointment, a member of another secondary school board;

(*b*) who is the clerk or treasurer of a municipality or county all or part of which is included in the secondary school district;

(*c*) who is otherwise disqualified under this or any other Act; or

(*d*) if any portion of the taxes levied for school purposes for the preceding year or years on the property in respect of which the person qualifies is overdue and unpaid at the time of election or appointment, provided that this clause does not apply where the person is a tenant of the property and the taxes in respect thereof are, under the terms of the tenancy, payable by the owner of the property, and the rental therefor is not overdue

and unpaid at the time of election or appointment. 1962-63, c. 130, s. 5, *part*; 1966, c. 141, s. 2, *amended*.

Qualification to act as trustee

(3) A person is qualified to act as a trustee during the term for which he was elected or appointed so long as he continues to have the qualifications mentioned in subsection 1 and does not become disqualified under clauses *a* to *d* of subsection 2.

Persons deemed ratepayers

(4) The following persons shall be deemed ratepayers under clause *d* of subsection 1;

(*a*) a person whose name is entered on the last revised assessment roll;

(*b*) the husband or wife of a person assessed as actual owner or tenant of land in the secondary school district for an amount sufficient to entitle him or her to vote at municipal elections;

(*c*) the son or daughter of a person assessed as the owner of a farm in the secondary school district if he or she is resident on the farm with the assessed owner; and

(*d*) the husband or wife of a person assessed in territory without municipal organization as the owner of a farm in the secondary school district if he or she resides on the farm with the assessed owner.

Interpretation

(5) For the purposes of this section, "farm" means not less than twenty acres of land in the actual occupation of the owner thereof. 1962-63, c. 150, s. 5, *part*.

Establishment and maintenance of schools

6.—(1) Every secondary school board shall provide adequate accommodation for its pupils and shall establish and maintain a secondary school in the secondary school district in which it has jurisdiction and may establish and maintain such additional secondary schools as the board considers necessary and may provide for the location, erection, maintenance and management of the schools so established.

Exceptions

(2) Notwithstanding subsection 1, the board of a secondary school district may, in lieu of establishing and maintaining a school, enter into an agreement with another secondary school board to provide for the instruction of its pupils in the schools under the jurisdiction of that board and for the payment of fees in respect of such pupils. R.S.O. 1960, c. 362, s. 30 (1, 2), *amended*.

Payment to school boards

7.—(1) Where a municipality or county has raised money for the purposes of a secondary school board by the issue and sale of debentures, or by the hypothecation of debentures or temporary financing pending the sale of debentures, it shall pay over such money to the board from time to time as the board may require.

Expenses re issuing debentures

(2) Where debentures are issued by a municipality or county on behalf of a board, the expenses of preparing and publishing any

by-laws or debentures, and all other expenses incident thereto, shall be charged to the board on whose behalf the debentures were issued, and the amount of the expenses may be deducted from the amount received from the sale of the debentures or from any school rates collected by the municipal council for the board. 1962-63, c. 130, s. 7.

Estimates

8.—(1) Every secondary school board in each year shall prepare and adopt and submit to the council of each municipality all or part of which is included in the secondary school district, estimates of all sums required during the year for the purposes of the board, and such estimates,

(*a*) shall set forth the estimated revenues and expenditures of the board;

(*b*) shall make due allowance for a surplus of any previous year that will be available during the current year;

(*c*) shall provide for any deficit of any previous year;

(*d*) may provide for expenditures for permanent improvements, provided that the total of expenditures for permanent improvements referred to in subparagraphs i, ii, iii, and vii of paragraph 18 of subsection 2 of section 1 of *The Schools Administration Act* shall not exceed a sum calculated at two mills in the dollar upon the total assessment of the secondary school district according to the last revised assessment roll, and for further expenditures if such further expenditures are approved in the manner provided for approving debentures for permanent improvements;

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(*e*) may provide for a reserve for working funds of a sum not in excess of 5 per cent of the expenditures of the board for the preceding year, but, where the sum accumulated in the reserve is equal to or more than 20 per cent of such expenditures, no further sum shall be provided. 1965, c. 119, s. 7, *part*; 1967, c. 91, s. 5; 1968-69, c. 115, s. 14 (1).

Rates for current purposes

(2) The council of each municipality, all or part of which is included in a secondary school district, shall levy and collect each year and pay to the secondary school board such sums as may be required by the board for secondary school purposes, in such instalments and at such times as are provided in section 34, which section applies *mutatis mutandis*. 1968-69, c. 115, s. 14 (2).

Municipality to account for moneys

(3) The council of each municipality shall annually account for all moneys collected for secondary school purposes and any sum collected in excess of the sum required by the board for school purposes shall be retained by the municipality and applied to reduce the sum that the municipality is required by such board to raise for school purposes in the following year. 1968, c. 122, s. 2; 1968-69, c. 115, s. 14 (3).

9.—(1) All property heretofore granted or devised to, acquired by or vested in any person or corporation for the secondary school purposes of any locality, or that may hereafter be so granted, devised, acquired or vested is vested in the board having jurisdiction in such locality. R.S.O. 1960, c. 362, s. 38 (1). Secondary school property vested in trustees

(2) The board has power to sell, convey, transfer or lease such property, or any part thereof, or any property otherwise acquired by the board, upon the adoption of a resolution by the board that the property is no longer required for secondary school purposes, and the proceeds of such sale, transfer or lease shall be applied for secondary school purposes. R.S.O. 1960, c. 362, s. 38 (2); 1967, c. 91, s. 6. Power to sell, lease, etc.

(3) Where a board sells, conveys, transfers or leases any such property, the secretary of the board shall immediately advise the Minister as to the disposition of the proceeds. R.S.O. 1960, c. 362, s. 38 (3). Notice to Minister

PART II

VOCATIONAL SCHOOLS

10. In this Part, "board" means a secondary school board or board of education. R.S.O. 1960, c. 362, s. 39. Interpretation

11.—(1) Subject to the approval of the Minister, a board may establish and maintain a vocational school. R.S.O. 1960, c. 362, s. 40 (1). Establishment of vocational schools

(2) A vocational school under this Part may provide, Courses of study

(*a*) full-time day courses of study;

(*b*) part-time day courses of study;

(*c*) evening courses of study.

(3) A board that has established a vocational school may establish special vocational schools or classes for the purpose of providing vocational education for pupils of thirteen years of age and over who have been in attendance in special education classes or who are eligible for admission to such classes. R.S.O. 1960, c. 362, s. 40 (2); 1968-69, c. 115, s. 17. Special vocational schools and classes

12.—(1) Upon the recommendation of the vocational school principal and with the approval of the advisory committee, pupils who have successfully completed grade 7 at an elementary school may be admitted to any pre-vocational school course of study at a vocational school. Admission of pupils, to pre-vocational school courses

(2) Subject to the regulations, pupils of thirteen years of age and over who have been in attendance in special education to special vocational schools and classes

classes, or who are eligible for admission to such classes , may, on the recommendation approved by the Minister of an examining board constituted by the Minister for the purpose, be admitted to special vocational schools or classes.

Idem

(3) Subject to the regulations, a resident pupil,

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(*a*) who is required to attend school under *The Schools Administration Act*; and

(*b*) in respect of whom a recommendation that he attend a special vocational school or class established by the school board has been made and approved under subsection 2,

may be required by the school board to attend any such special vocational school or class.

Admission of adults

(4) Where the vocational school principal is satisfied that an adult is competent to receive instruction, the adult may, without regard to his school standing, be admitted,

(*a*) to a special full-time day course of study;

(*b*) to a part-time day course of study; or

(*c*) to an evening course of study.

Transfer from pre-vocational courses

(5) Where a pupil has,

(*a*) attended pre-vocational school classes in a vocational school for at least one year; and

(*b*) made progress in his course of study satisfactory to the principal,

he may, with the approval of the principal, transfer to any other course of study in the vocational school. R.S.O. 1960, c. 362, s. 41.

Advisory vocational committee

13.—(1) Where, in accordance with the regulations, one or more schools to which this Part applies are established by a board, the schools shall be under the management and control of the board, and the board shall appoint an advisory vocational committee and shall consider recommendations submitted to it by the committee. 1966, c. 141, s. 5.

Composition

(2) The committee shall consist of five, eight or twelve members as the board may determine. 1961-62, c. 131, s. 4, *part*.

Idem

(3) Where the committee is to consist of five members, it shall be composed of,

(*a*) the chairman and two trustees;

(*b*) one person, appointed by the board, who is an employee

in manufacturing, agricultural, commercial or other industry; and

(*c*) one person, appointed by the board, who is an employer of labour or the director of a company employing labour in manufacturing, agricultural, commercial or other industry. 1961-62, c. 131, s. 4, *part*; 1964, c. 106, s. 8 (1).

Idem

(4) Where the committee is to consist of eight members, it shall be composed of,

(*a*) the chairman and three trustees;

(*b*) two persons, appointed by the board, who are employees in manufacturing, agricultural, commercial or other industries; and

(*c*) two persons, appointed by the board, who are employers of labour or directors of companies employing labour in manufacturing, agricultural, commercial or other industries. 1961-62, c. 131, s. 4, *part*; 1964, c. 106, s. 8 (2).

Idem

(5) Where the committee is to consist of twelve members, it shall be composed of,

(*a*) the chairman and five trustees;

(*b*) three persons, appointed by the board, who are employees in manufacturing, agricultural, commercial or other industries; and

(*c*) three persons, appointed by the board, who are employers of labour or directors of companies employing labour in manufacturing, agricultural, commercial or other industries. 1961-62, c. 131, s. 4, *part*; 1964, c. 106, s. 8 (3).

Appointments from other occupations

(6) Where, in the opinion of a board, representation on a committee would be desirable from any business or occupation not referred to in subsection 3, 4 or 5, the board may appoint, in lieu of a person referred to in clause *b* or *c* of subsection 3, 4 or 5, an employee or an employer or director of a company, as the case may be, engaged in such business or occupation. 1965, c. 119, s. 10 (1).

Where school under technical and vocational training agreement

(7) Where a vocational school is built under a technical and vocational training agreement entered into by Canada and the Province of Ontario in one secondary school district on the understanding that it will serve two or more secondary school districts, the composition of the committee shall be determined, subject to the approval of the Minister, by the boards concerned. 1961-62, c. 131, s. 4, *part*.

Appointment of members

14.—(1) The first members of the advisory vocational committee shall be appointed at the meeting of the board at which a school is established for which the committee is to be appointed.

Tenure of office

(2) The members of the committee who are members of the board shall hold office until the expiry of the period for which they were elected or appointed to the board.

Idem

(3) The term for which the other members of the committee shall respectively hold office shall be fixed by the board but shall not exceed three years.

Vacancies

(4) The board, at its first meeting in each year after the establishment of the school, shall appoint a sufficient number of members from each class to fill the vacancies caused by the expiry of the term of office of members appointed from that class.

Idem

(5) Every vacancy upon a committee occasioned by death, removal or other cause shall be filled by the appointment by the board of some person from the class in which the vacancy occurs, and every person so appointed shall hold office for the unexpired portion of the term of the member whose seat has become vacant.

Quorum

(6) The presence of a majority of the members constituting a committee is a quorum at any meeting, and a vote of the majority of the quorum is necessary to bind a committee.

Chairman voting

(7) On every question, other than the election of a chairman, the chairman or presiding officer of the committee may vote with the other members of the committee, and any question on which there is an equality of votes shall be deemed to be negatived. R.S.O. 1960, c. 362, s. 43.

Co-opted members

15.—(1) The advisory vocational committee may, in any year at a meeting that has been specially called for the purpose and of which notice has been given to all the members, appoint such additional members of the committee, to be known as co-opted members, as it considers necessary.

Idem

(2) In the appointment of co-opted members, an equal number of persons shall be appointed from each of the classes mentioned in clauses *b* and *c* of subsection 3 of section 13 or in clauses *b* and *c* of subsection 4 of section 13, as the case requires, and a number of members of the board shall be appointed equal to the total number of additional persons appointed from the said classes.

Term of office

(3) Co-opted members shall hold office for the calendar year in which they are appointed. R.S.O. 1960, c. 362, s. 44.

Qualifications of members

16. The appointed members and co-opted members of the advisory vocational committee shall, in addition to their techni-

cal or business qualifications, have the qualifications required for the members of the board by which they are appointed. 1964, c. 106, s. 9.

17.—(1) The advisory vocational committee shall make recommendations to the board with respect to a suitable site, building and equipment, or for the conducting of a school in another building in the secondary school district, and with respect to courses of study. Powers of committee

(2) The advisory vocational committee shall make recommendations to the board with respect to the selection and salary schedules of vocational teachers and shall co-operate with the building, education, finance, property, salary and other committees of the board in all matters affecting vocational education in the vocational and composite schools under the jurisdiction of the board. 1964, c. 106, s. 10. Idem

(3) The board shall not refuse its approval of any report of the committee without having given the committee an opportunity to be heard before the board and before any committee thereof to which the report is referred by the chairman of the committee or by another member of the committee appointed for that purpose. When approval withheld

(4) The secretary and other officers of the board shall be the officers of the committee. R.S.O. 1960, c. 362, s. 46 (3, 4). Officers of committee

(5) Subject to the approval of the Minister, the board, upon the recommendation of the committee, may appoint one or more officers with qualifications approved by the Minister to bring to the attention of employers and employees the work of the schools, and to make the necessary arrangements among employers, employees and the schools for the conduct of part-time or co-operative classes, and, in general, to act as a co-ordinating officer or officers between the local industries and the schools, and every person so appointed is subject to the control of the board. 1967, c. 91, s. 7. Co-ordinating officers

18.—(1) Subject to the regulations, the estimates of the advisory vocational committee of the cost of establishing, equipping and maintaining the school or schools when and so far as they have been approved by the board, shall be included in the estimates of the board submitted to the municipal council or councils for the year. R.S.O. 1960, c. 362, s. 47 (1); 1968-69, c. 115, s. 18. Estimates

(2) Subject to the regulations, the cost of establishing, equipping and maintaining vocational schools, and the cost of permanent improvements thereof, shall be provided for in the same manner as in the case of secondary schools. R.S.O. 1960, c. 362, s. 47 (2). Provision of moneys

Application of Pts. I, III, VI and R.S.O. 1970, c. 424

19. Where not inconsistent with this Part, Parts I, III and VI and *The Schools Administration Act* apply in all matters concerning the operation and management of a vocational school, the property in connection therewith, the employment and retirement of teachers and other persons employed in such vocational school, and in any other matters whatsoever. R.S.O. 1960, c. 362, s. 48.

PART III

BOARDS OF EDUCATION

Interpretation

20. In this Part, "board of education" means a board of education other than a divisional board established under Part IV. 1968-69, c. 115, s. 19.

Establishment and status of board

21.—(1) A board of education may be established in a secondary school district to perform the duties of a secondary school board for the district and the duties of a public school board for the school section or sections situated within the boundaries of the district, and where a board of education is established,

(*a*) for secondary school purposes, it shall be deemed to be a secondary school board for the purposes of this and every other Act; and

(*b*) for public school purposes, it shall be deemed to be a public school board for the purposes of this and every other Act,

except where inconsistent with this Part.

Powers and duties of board

(2) Every board of education is a corporation and has all the powers and shall perform all the duties that by this or any other Act are conferred or imposed upon a public school board or a secondary school board.

Name of board

(3) The name of a board of education that has jurisdiction in one municipality is "The Board of Education for the.....of....." (*inserting the name of the municipality*).

Idem

(4) The name of a board of education that has jurisdiction in more than one municipality is "The..... District Board of Education" (*inserting a name selected by the board and approved by the Minister*). R.S.O. 1960, c. 362, s. 50 (1-4).

Members to be trustees

(5) A member of a board of education elected by separate school supporters or appointed by a separate school board is a trustee for secondary school purposes only and shall not vote on

matters that affect public schools exclusively, and all other members of a board of education are trustees for public and secondary school purposes. 1970, c. 63, s. 1.

Assets, liabilities etc.

22. Upon the organization of a board of education,

(*a*) the secondary school board and all public school boards in the secondary school district are dissolved;

(*b*) all the property vested in such boards becomes vested in the board of education; and

(*c*) all debts, contracts, agreements and liabilities for which such boards were liable become obligations of the board of education. R.S.O. 1960, c. 362, s. 52 (1); 1967, c. 91, s. 9.

Appropriation of property

23. A board of education may appropriate any property acquired by it or in its possession or control for any of the purposes of the board but, where public school property is appropriated for secondary school purposes, the public school board shall be credited with the value of the property so appropriated and, where secondary school property is appropriated for public school purposes, the secondary school board shall be credited with the value of the property so appropriated. R.S.O. 1960, c. 362, s. 53, *amended*.

Composition of boards of education

24.—(1) Where a board of education is established for one municipality that is not a school division or part of a school division, the members of the board shall be elected as provided in section 37, which section applies *mutatis mutandis*, except that the number of members to be elected by the separate school supporters shall be,

(*a*) where the population of the municipality is 50,000 or more, not fewer than two; and

(*b*) where the population of the municipality is less than 50,000, not fewer than one. 1968-69, c. 115, s. 23.

Qualification and disqualification

(2) The provisions of section 39 in respect of the qualifications and disqualifications of members of a divisional board of education apply to members of a board of education established under this Part.

Exception

(3) Notwithstanding subsection 2, a member of a board of education who was elected or appointed prior to the 1st day of January, 1970, shall not be disqualified in respect of his place of residence so long as he maintains the residence qualification required of him at the time of his election or appointment.

Filling vacancies

(4) Subject to subsection 5, where the office of a member of a board of education becomes vacant from any cause before the

expiration of his term, it shall be filled in the manner provided for filling a vacancy on a divisional board of education.

Filling vacancies prior to next election

(5) Where, before the election next following the 1st day of January, 1970, a vacancy occurs in the office of a member of a board of education who was appointed by a separate school board, such separate school board shall appoint a member to fill the vacancy, and the person so appointed shall hold the qualifications required of a member of a board of education elected by separate school supporters. 1970, c. 63, s. 2.

Special and advanced courses of study in secondary schools

25.—(1) Every board of education having jurisdiction over more than one secondary school, with the approval of the Minister, may,

(*a*) make such modifications of the school courses provided in the secondary schools under its jurisdiction as it considers expedient;

(*b*) provide for special or advanced instruction in any of such courses;

(*c*) designate such schools, or any of them, according to the course or courses of instruction provided therein.

Application of regulations

(2) The accommodations and equipment of the school and the qualifications of the staff are subject to the regulations. R.S.O. 1960, c. 362, s. 63 (1, 2), *amended*.

Application of R.S.O. 1970, c. 385

26. The provisions of *The Public Schools Act* and Parts I, II and VI that are not inconsistent with this Part shall be read as part of this Part and so far as such provisions are inconsistent with the provisions of this Part they do not apply to boards of education. R.S.O. 1960, c. 362, s. 64; 1964, c. 106, s. 13.

PART IV

DIVISIONAL BOARDS OF EDUCATION

Interpretation

27.—(1) In this Part,

(*a*) "city" includes a separated town, but does not include a defined city or an area municipality as defined in *The Municipality of Metropolitan Toronto Act* or in *The Regional Municipality of Ottawa-Carleton Act*;

R.S.O. 1970, cc. 295, 407

(*b*) "county" includes a provisional county and a united county;

(*c*) "county municipality" means a municipality that forms part of a county for municipal purposes and includes a municipality, other than a city, that forms part of a regional municipality;

(*d*) "defined city" means,

(i) the City of Hamilton,

(ii) the City of London, and

(iii) the City of Windsor,

(*e*) "district municipality" means a municipality, except a city, in a territorial district, and includes an area municipality as defined in *The District Municipality of Muskoka Act*. R.S.O. 1970, c. 131

(*f*) "divisional board" means a divisional board of education established under this Part;

(*g*) "public school elector" in a school division means,

(i) in a municipality, a person whose name is entered on the last revised voters' list as qualified to vote at the municipal elections of the municipality, but does not appear thereon as a supporter of a separate school for Roman Catholics, and

(ii) in territory without municipal organization, a person who is of the fulll age of twenty-one years and a British subject and whose name is entered on the last revised assessment roll for such territory, except a person who is a Roman Catholic and whose name is entered on such roll as a separate school supporter;

(*h*) "school division" means a school division established by or under this Part;

(*i*) "separate school supporter" in a school division means,

(i) in a municipality, a person whose name is entered on the last revised voters' list as qualified to vote at the municipal elections of the municipality and appears thereon as a supporter of a separate school for Roman Catholics, and

(ii) in territory without municipal organization, a person who is of the full age of twenty-one years, a British subject and a Roman Catholic and whose name is entered on the last revised assessment roll for such territory as a supporter of separate schools. 1968, c. 122, s. 8, *part*; 1968-69, c. 115, s. 31 (1); 1970, c. 63, s. 4.

Application to schools on exempt land R.S.O. 1970, c. 385

(2) This Part does not apply to a board, school section or high or secondary school district heretofore or hereafter established under section 12 of *The Public Schools Act* or under section 4 of this Act or a predecessor of any such section. 1968-69, c. 115, s. 31 (2), *amended*.

Essex county

(3) For the purposes of this Part, the County of Essex includes Pelee Island. 1968, c. 122, s. 8, *part*.

Territory without municipal organization deemed district municipality

R.S.O. 1960, cc. 330, 362

(4) For the purposes of this Part,

(*a*) every school section in existence on the 31st day of December, 1968 that comprised only territory without municipal organization, except a school section established under section 12 of *The Public Schools Act* or under subsection 4*a* of section 51 of *The Secondary Schools and Boards of Education Act*;

(*b*) any part of territory without municipal organization that on the 31st day of December, 1968 was part of a high school district but was not in a school section; and

(*c*) any part of territory without municipal organization that is designated by the regulation made under subsection 2 of section 28 as part of a school division and on the 31st day of December, 1968 was not in a school section or in a high school district,

shall be deemed to be a district municipality. 1968, c. 122, s. 8, *part*; 1968-69, c. 115, s. 31 (3), *amended*.

Powers and duties of divisional board re territory without municipal organization

(5) The divisional board of a school division that includes territory without municipal organization that is deemed a district municipality shall exercise the powers and duties of a municipal council for such district municipality with respect to preparing estimates, levying rates, collecting taxes and issuing debentures for the purposes of the divisional board and with respect to the preparation of a voters' list and the election of members of the divisional board and all the officers appointed by the divisional board have the same powers and duties as similar officers in an organized municipality and the provisions of subsections 6 to 11 of section 3 apply *mutatis mutandis*, and the expenses incurred by the board in connection therewith except the issuing of debentures shall be raised by a levy imposed by the divisional board on all the rateable property in the district municipality. 1968, c. 122, s. 8, *part*; 1968-69, c. 115, s. 31 (4), *amended*.

Rates for public library in unorganized territory in school division

R.S.O. 1970, c. 381

(6) Where a public library has been established for a school section in territory without municipal organization that is deemed a district municipality within a school division under subsection 4, the divisional board of the school division shall be deemed to be a municipal council for such district municipality under section 23 of *The Public Libraries Act*, and the amount of the estimates of the board of the public library appropriated for such board by the divisional board of the school division shall be raised by a levy imposed by the divisional board on all the rateable property in the district municipality. 1968-69, c. 115, s. 31 (5).

(7) Subject to subsection 8, where any part of territory without municipal organization is now attached for public school purposes to a municipality, such part of territory without municipal organization shall, for public and secondary school purposes, be deemed to be attached to such municipality for the purposes of this Part, and the officers of such municipality shall collect all taxes and do all such other acts and perform all such duties and be subject to the same liabilities with respect to the part of the territory without municipal organization forming part of the school division as with respect to any part of the school division that is within the municipality, and subsection 2 of section 40 of *The Public Schools Act* applies *mutatis mutandis*. Parts of territory without municipal organization attached to municipality R.S.O. 1970, c. 385

(8) Where any part of territory without municipal organization is attached under subsection 7 to a municipality, and such part is included under subsection 9 of section 38 with one or more municipalities in a combined area for the election of one or more members of the divisional board and the combined area does not include the municipality to which such part is so attached, such part for the purposes of subsection 7 shall be deemed to be attached to the municipality that has the greatest residential and farm assessment in the combined area according to the last revised assessment roll as adjusted by the application of the equalization factor, based on such assessment, provided by the Department of Municipal Affairs. Idem

(9) The trustees of an improvement district that forms all or part of a school division, in each year in which an election for members of the divisional board is to be held, shall provide for such election in the improvement district in the same manner as for the election of trustees in a municipality and the secretary-treasurer of the improvement district shall be the clerk and returning officer and has all the powers and shall perform all the duties of the clerk and returning officer of a municipality in relation to the preparation of a voters' list and the election of members of a divisional board under *The Municipal Act* and *The Voters' Lists Act* which apply *mutatis mutandis*. 1968, c. 122, s. 8, *part*. Elections in improvement districts R.S.O. 1970, cc. 284, 486

28.—(1) On and after the 1st day of January, 1969, School divisions, in counties

(*a*) every defined city; and

(*b*) every county, including all municipalities situate therein, except,

(i) a defined city, and

(ii) an area municipality as defined in *The Municipality of Metropolitan Toronto Act* or in *The Regional Municipality of Ottawa-Carleton Act*, R.S.O. 1970, cc. 295, 407

is a school division.

in territorial districts

(2) The Lieutenant Governor in Council may by regulation,

(*a*) designate any area in the territorial districts as a school division;

(*b*) assign a name to the divisional board for each such school division;

(*c*) alter the boundaries of any such school division, and where any part of territory without municipal organization is attached to such a school division, designate such part as a district municipality or attach it to a district municipality.

deemed public school section and secondary school district

(3) For the purposes of every Act, a school division shall be deemed to be a school section and a secondary school district. 1968, c. 122, s. 8, *part*.

Divisional boards establishment

29.—(1) A divisional board of education shall be established in each school division, and the members of the board shall be elected and the board organized in accordance with this Part.

Powers and duties

(2) Every divisional board is a corporation and has all the powers and shall perform all the duties that by this or any other Act are conferred or imposed upon a public school board or a secondary school board, and, except where inconsistent with this Part, for the purposes of every Act, shall be deemed to be,

(*a*) a secondary school board for secondary school purposes; and

(*b*) a public school board for public school purposes.

Name of board, defined city

(3) The name of a divisional board that has jurisdiction in a defined city is "The Board of Education for the City of ....." (*inserting the name of the defined city*).

county

(4) The name of a divisional board that has jurisdiction in one county is "The ..... County Board of Education" (*inserting the name of the county*). 1968, c. 122, s. 8, *part*.

regional municipality

(5) Except where expressly provided in any other Act, the name of a divisional board that has jurisdiction in all or part of a regional municipality is the "..... ..... Board of Education" (*inserting a name selected by the board and approved by the Minister*). 1968-69, c. 115, s. 32.

territorial districts

(6) The name of a divisional board that has jurisdiction in the territorial districts is "The ..... Board of Education" (*inserting the name assigned by the regulations*).

(7) A member of a divisional board who is elected by separate school supporters is a trustee for secondary school purposes only and shall not vote on a motion that affects public schools exclusively, and all other members of a divisional board are trustees for public and secondary school purposes. 1968, c. 122, s. 8, *part*. Members to be trustees

30.—(1) In this section, "board" means a public school board, high school board, collegiate institute board, board of education or continuation school board. 1968, c. 122, s. 8, *part*. Interpretation

(2) Upon the organization of a divisional board of a school division of a defined city and in respect of divisional boards of all other school divisions on the 1st day of January, 1969,

(*a*) all boards that have jurisdiction wholly or partly in the school division are dissolved;

(*b*) subject to subsection 4, all real and personal property vested in such boards and situate in the school division becomes vested in the divisional board;

(*c*) all debts, contracts, agreements and liabilities for which such boards were liable, except employment contracts with teachers, become obligations of the divisional board or boards as provided by the arbitrators under subsections 3 and 4;

(*d*) the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and the audited surplus or deficit as at the 31st day of December, 1968, of each such board shall accrue to the credit of, or become the responsibility of, the assessment supporting such board on the 31st day of December, 1968, and shall be apportioned by the arbitrators under this section among the municipalities or parts thereof comprising the area of jurisdiction of such board in the same proportion as the requisition for the year 1968 was apportioned among such municipalities or parts;

(*e*) the employment contract of every teacher who, immediately before the 1st day of January, 1969, was required to teach only in one or more schools included in the school division becomes an obligation of the divisional board of the school division; and

(*f*) the employment contract of every teacher who, immediately before the 1st day of January, 1969, was required to teach in one or more schools in the school division and in one or more schools in one or more other school divisions becomes an obligation of such divisional board as is provided by the arbitrators under subsection 4. 1968, c. 122, s. 8, *part*; 1968-69, c. 115, s. 33 (1, 2).

Arbitration

(3) Each divisional board shall, on or before the 15th day of March, 1969, appoint three or five arbitrators, who are not members of the divisional board or of a municipal council that has jurisdiction in the school division, who shall value and adjust in an equitable manner the assets and liabilities, as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, of the boards that, before they were dissolved under subsection 2, had jurisdiction wholly in the school division in which the divisional board has jurisdiction. 1968, c. 122, s. 8, *part*; 1968-69, c. 115, s. 33 (3).

Idem

(4) Where a board that is dissolved under subsection 2 had jurisdiction in an area that after the 1st day of January, 1969, forms part of two or more school divisions, each divisional board shall, on or before the 15th day of March, 1969, designate two of the arbitrators appointed by it under subsection 3 who shall collectively value and adjust in an equitable manner the assets and liabilities of such boards as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, and shall apportion in an equitable manner the obligations under clauses *c* and *f* of subsection 2. 1968, c. 122, s. 8, *part*; 1968-69, c. 115, s. 33 (4).

Appointment of additional arbitrator

(5) The arbitrators under subsection 4 shall appoint an additional arbitrator, and if the arbitrators fail to make such appointment before the 1st day of April, 1969, the Minister may make such appointment.

Referral to O.M.B.

(6) Where a majority of the arbitrators is unable to reach a decision on any matter, such matter shall be referred by the divisional board or boards to the Ontario Municipal Board whose decision is final. 1968, c. 122, s. 8, *part*.

Decision of arbitrators

(7) The decision of a majority of the arbitrators under subsection 3 or 4 shall be made on or before the 31st day of July, 1970, except a decision in respect of a teacher's contract under clause *f* of subsection 2 which shall be made on or before the 1st day of May, 1969, and, subject to subsection 9, every such decision is final.

Implementation of decision

(8) A decision under subsection 3 or 4 or an amended decision under subsection 9 shall not be implemented before the 1st day of January, 1971, but the provisions of this subsection shall not operate so as to prevent the implementation before the 15th day of June, 1970, of,

(*a*) a decision in respect of a teacher's contract under clause *f* of subsection 2; or

(*b*) a decision, other than a decision referred to in clause *a*, that has been implemented in whole or in part before such date.

(9) Where, subsequent to the decision of the arbitrators referred to in subsection 7, a matter or condition that was not evident at the time the decision was made is brought to the attention of the divisional board before the 30th day of September, 1970, the divisional board, where no part of the decision, other than a decision in respect of a teacher's contract under clause *f* of subsection 2, has been implemented before the 15th day of June, 1970, shall, before the 15th day of October, 1970, refer the matter or condition to the arbitrators who shall, prior to the 15th day of November, 1970, make a decision in relation to such matter or condition in accordance with this section, and may amend their former decision accordingly, and the provisions of subsection 6 apply *mutatis mutandis*. Amended decision

(10) For the purposes of subsection 9, where an arbitrator appointed under subsection 3, 4 or 5 is unable for any reason to act, a person qualified in accordance with subsection 3 shall be appointed to fill the vacancy by the board, or by the arbitrators, that appointed the arbitrator who is unable to act. 1970, c. 63, s. 5. Vacancy in arbitrators

(11) Where an employee of a board that, before the 1st day of June, 1968, has established a sick leave credit plan becomes, on the 1st day of January, 1969, an employee of a divisional board, the divisional board shall place to the credit of the employee the sick leave credits and the termination of employment benefits standing to his credit in the plan of the first-mentioned board. 1968, c. 122, s. 8, *part*. Sick leave credits

(12) Notwithstanding subsection 4 of section 102 of *The Schools Administration Act*, each arbitrator appointed under this section shall be paid such fee for his services as is determined by the divisional board that appointed him. 1968-69, c. 115, s. 33 (6). Fees for arbitrators R.S.O. 1970, c. 424

31.—(1) Every divisional board in each year shall prepare and adopt estimates of all sums required during the year for public school purposes and for secondary school purposes respectively, and such estimates, Estimates

(*a*) shall set forth the estimated revenues and expenditures of the board including debt charges payable by the divisional board or on its behalf by the council of a municipality or a county;

(*b*) shall make due allowance for a surplus of any previous year that will be available during the current year;

(*c*) shall provide for any deficit of any previous year;

(*d*) may provide for expenditures for permanent improvements, provided that the total of expenditures for permanent improvements referred to in subparagraphs

R.S.O. 1970, c. 424

i, ii, iii and vii of paragraph 18 of subsection 2 of section 1 of *The Schools Administration Act*,

(i) for secondary school purposes shall not exceed a sum calculated at one mill in the dollar upon the total assessment of the school division upon which taxes were levied in the preceding year as equalized by the application of the equalization factor provided by the Department of Municipal Affairs, and

(ii) for public school purposes shall not exceed a sum calculated at one mill in the dollar upon the total assessment of the taxable property of public school supporters in the school division upon which taxes were levied in the preceding year as equalized by the application of the equalization factor provided by the Department of Municipal Affairs,

and such assessment shall be that on which taxes were levied in the year preceding the year for which the estimates are adopted;

(*e*) may provide for a reserve for working funds of a sum not in excess of 5 per cent of the expenditures of the board for the preceding year, but, where the sum accumulated in the reserve is equal to or more than 20 per cent of such expenditures, no further sum shall be provided,

and shall submit to the council of each municipality in the school division on or before the 1st day of March in each year a statement indicating the amount of the estimates for public school purposes and for secondary school purposes to be raised by each municipality and a requisition of the amount of the estimates for public school purposes and for secondary school purposes required to be raised by the municipality. 1968, c. 122, s. 8, *part*; 1968-69, c. 115, s. 34 (1).

Where estimates submitted after Mar. 1st

(2) Where, in any year, a divisional board is unable to submit the statement and requisition required under subsection 1 to the council of each municipality in the school division on or before the 1st day of March, the later submission thereof does not relieve the council of its duty under subsection 1 of section 34 to levy and collect the amount required by the divisional board.

Where cost of separate levy payable by divisional board

(3) Where, in the year 1971 and in any year thereafter, the council of a municipality is required, by reason of receiving the requisition of a divisional board under subsection 1 after the 1st day of March, to levy the amount required by the divisional board by a separate levy from the amount levied for municipal purposes, the divisional board, on the request of the treasurer of the municipality, shall pay to the treasurer the cost of levying the amount required by the divisional board. 1970, c. 63, s. 6.

Application of R.S.O. 1970, c. 284, s. 307, subs. 5

(4) Subsection 5 of section 307 of *The Municipal Act* does not apply to divisional boards. 1968-69, c. 115, s. 34 (2), *part*.

32.—(1) In this section, Interpretation

(*a*) "assessment" means the assessment upon which taxes are levied in the year preceding the year in which the proportion to be determined will be payable;

(*b*) "equalization factor" means the equalization factor, based on the assessment referred to in clause *a*, provided by the Department of Municipal Affairs;

(*c*) "equalized assessment" means the assessment as adjusted by the application of the equalization factor. 1968, c. 122, s. 8, *part*.

(2) Where in any year territory without municipal organization is included in a school division and property therein is assessed for the first time for the purpose of levying rates and collecting taxes for school purposes, such assessment shall, for the purposes of apportionment of costs for that year under this section, be the assessment on which taxes are levied in that year and a request for arbitration under subsection 11 may be made within thirty days after receiving the apportionment from the divisional board. 1968-69, c. 115, s. 35; 1970, c. 63, s. 7 (1). Apportionment where unorganized territory becomes part of school division

(3) The sum required by a divisional board for secondary school purposes shall be apportioned among the municipalities in the school division in the proportion that the equalized assessment of the property rateable for secondary school purposes in each such municipality bears to the equalized assessment of all the property rateable for secondary school purposes in the school division. Apportionment, secondary school purposes

(4) The sum required by a divisional board for public school purposes shall be apportioned among the municipalities in the school division in the proportion that the equalized assessment of the property rateable for public school purposes in each such municipality bears to the equalized assessment of all the property rateable for public school purposes in the school division. 1968, c. 122, s. 8, *part*. Apportionment, public school purposes

(5) Where in respect of any year, the council of a municipality is of the opinion that the apportionment made under subsection 3 or 4 imposes an undue burden on the ratepayers of the municipality or of part thereof, the council may apply to the divisional board, within thirty days after receiving the apportionment from the divisional board, for an arbitration to determine the proportion of the sums required for public school purposes and for secondary school purposes that each municipality or part thereof shall bear in such year. 1970, c. 63, s. 7 (2). Request for arbitration

(6) The request for arbitration under subsection 5, in respect of the year 1969, may be made to the divisional board before the 1st day of March, 1969, and where the decision under this section for year 1969

results in an adjustment of the apportionment under subsection 3 or 4 for the year 1969, an underpayment or an overpayment by a municipality with respect to the apportionment for the year 1969 shall be adjusted in the levy for the year 1970.

Abitrators

(7) Upon receipt of the application, the divisional board shall direct its secretary to call a meeting of the treasurer of the county and the treasurers of the municipalities within the school division, and these treasurers shall be arbitrators to determine the proportion of the amounts to be raised by each municipality.

Notification of decision

(8) The arbitrators shall make their decision in writing and file a copy thereof with the secretary of the divisional board who shall forthwith send a copy of the decision to the clerk of each municipality by registered mail.

Reference to O.M.B.

(9) If, within thirty days of the mailing of the copies of the decision by the secretary, the council of one of the municipalities files with the secretary a written objection to the decision of the arbitrators, the divisional board shall refer the matter to the Ontario Municipal Board whose decision is final. 1968, c. 122, s. 8, *part*.

Effect of decision

(10) The decision of the arbitrators, or, if the matter is referred to the Ontario Municipal Board, the decision of the Ontario Municipal Board, is effective for the year in respect of which the decision is made. 1968, c. 122, s. 8, *part*; 1970, c. 63, s. 7 (3).

Territory without municipal organization

(11) In territory without municipal organization that is deemed to be a district municipality in a school division, five ratepayers resident in such district municipality have the same powers as the council of a municipality under subsections 5 and 9 and may appoint one ratepayer to act as treasurer for the purposes of this section and, where any disagreement arises in respect of such appointed treasurer, the secretary of the divisional board shall designate the person so to act. 1970, c. 63, s. 7 (4).

Adjustment as result of arbitration

(12) Where in respect of any year a municipality in a school division has, under section 34, levied the amounts that were requisitioned by the divisional board and such amounts are altered by a decision of the arbitrators or by a decision of the Ontario Municipal Board, an overpayment or an underpayment in respect of the municipality or part, resulting from such alteration, shall be adjusted in the levy for the following year. 1970, c. 63, s. 7 (5).

Interpretation

33.—(1) In any regulation made under this section, except where otherwise provided in the regulation, assessment, equalization factor and equalized assessment have the same meaning as in section 32.

(2) The Lieutenant Governor in Council may make regulations providing for the apportionment of the sums required by a divisional board for secondary school purposes and for public school purposes for the year 1970 and any subsequent year among the municipalities or parts thereof in the school division. Regulations for apportionment in year 1970 and any subsequent year

(3) Notwithstanding subsections 3 and 4 of section 32, the sums required by a divisional board for secondary school purposes and for public school purposes for any year to which a regulation passed under this section is applicable shall be apportioned among the municipalities or parts thereof in the school division in accordance with such regulation. Apportionment

(4) Where, in making the apportionment in accordance with the regulations, estimated data are used, an overpayment or an underpayment by a municipality or part, determined on the basis of actual data, shall be adjusted in the levy for the following year. Where estimated data used

(5) Where the regulations made under *The Department of Education Act* provide for a grant to a divisional board on behalf of a part of a territorial district that in the year 1968 was not included in a secondary school district, such grant shall be applied to reduce the sum required to be raised under this section in such part of the territorial district. 1968-69, c. 115, s. 38. Application of grants R.S.O. 1970, c. 111

(6) Where the council of a municipality is of the opinion that the apportionment made under this section imposes an undue burden on the ratepayers of the municipality or part, the council may apply to the divisional board, within thirty days after receiving such apportionment from the divisional board, for an arbitration to determine the proportion of the sums required for public school purposes and for secondary school purposes that each municipality shall raise in respect of the year for which the request for an arbitration is made, and the provisions of subsections 7 to 12 of section 32 apply *mutatis mutandis*. 1970, c. 63, s. 8. Request for arbitration

34.—(1) The council of each municipality in a school division in each year shall levy and collect, Rates

(*a*) upon all the property rateable for public school purposes in the municipality the amount that it is required by the divisional board to raise for public school purposes; and

(*b*) upon all the property rateable for secondary school purposes in the municipality the amount that it is required by the divisional board to raise for secondary school purposes. 1968-69, c. 115, s. 39 (1).

(2) Subject to subsection 3, the council of each municipality in a school division in each year shall pay to the divisional board the amounts required to be raised by the municipality for public Payment to boards

school purposes and for secondary school purposes, in the following instalments:

1. 25 per cent of such amounts on the 31st day of March;
2. 25 per cent of such amounts on the 30th day of June;
3. 25 per cent of such amounts on the 30th day of September; and
4. 25 per cent of such amounts on the 15th day of December,

and in case of non-payment of such instalments or any portion thereof on such dates, the municipality so in default shall pay to the board interest thereon from the day of default to the date that the payment is made at the minimum lending rate of the majority of chartered banks on the day of default and where, with the consent of the board, such instalments or any portion thereof are paid in advance of such dates the board shall allow to the municipality a discount thereon from the date of payment to the date upon which the payment is due at the minimum lending rate of the majority of chartered banks on the date of payment.

Agreement

(3) A divisional board may, by agreement with a majority of the municipalities in the school division where such municipalities represent at least two-thirds of the equalized assessment in the school division, provide for any number of instalments and the amounts and due dates thereof other than those provided in subsection 2, which shall be applicable to all municipalities in the school division and otherwise subsection 2 applies *mutatis mutandis*. 1968-69, c. 115, s. 39 (3).

Termination of agreement

(4) Where an agreement under subsection 3 does not provide for its termination, it shall continue in force from year to year until it is terminated on the 31st day of December in any year by notice given before the 31st day of October in such year,

(*a*) by the secretary of the divisional board as authorized by a resolution of the divisional board; or

(*b*) by the clerks of the majority of the municipalities which represent at least two-thirds of the equalized assessment in the school division,

and where no agreement is in effect under subsection 3, the payments shall be made as provided in subsection 2.

Where instalment due before requisition received

(5) Where in any year, for any reason, the amounts required to be raised under subsection 1 have not been requisitioned before the date upon which an instalment is due, the amount of the instalment shall be based upon the requisition of the previous year and paid on the due date, and in the case of late payment or prepayment of all or part of such instalment the interest or discount under subsection 2 shall apply thereto, and the necessary

adjustment shall be made in the instalment due next following the date upon which the requisition of the divisional board is received. 1970, c. 63, s. 9 (3).

Tax notices R.S.O. 1970, c. 284

(6) The notice of taxes given by the collector under section 521 of *The Municipal Act* shall be given separately in relation to taxes imposed for school purposes or in such manner as will clearly indicate the taxes imposed for school purposes. 1968, c. 122, s. 8, *part*.

Debentures

35.—(1) Subject to the approval of the Ontario Municipal Board, the sums required by a divisional board for permanent improvements may be raised by the issue of debentures by the divisional board in the manner provided for the issue of municipal debentures in *The Municipal Act*, and for the purposes of this section the duties imposed under *The Municipal Act* regarding the issuing of debentures and the use of moneys received from the sale or hypothecation of debentures, upon the Corporation, the head of council and the treasurer respectively are imposed upon the divisional board, the chairman of the divisional board and the treasurer of the divisional board respectively. 1968, c. 122, s. 8, *part*.

Notification of debt charges

(2) The clerk-treasurer or treasurer of each county and municipality in which a divisional board has jurisdiction shall notify the treasurer of the divisional board before the 1st day of January in each year of the amount of the principal and interest due and payable in that year in respect of debentures issued for school purposes by such county or municipality and the dates on which payments are due. 1968, c. 122, s. 8, *part, amended*.

Payment of debt charges for debentures not issued by the board

(3) The treasurer of the divisional board shall pay to every county and municipality on or before the due date of payment the amount of the principal and interest as notified under subsection 2. 1968, c. 122, s. 8, *part*.

Appointment and dismissal of auditor

36.—(1) Every divisional board shall appoint an auditor who shall be a person licensed by the Department of Municipal Affairs as a municipal auditor and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the divisional board.

Disqualification of auditor

(2) No person shall be appointed as an auditor of a divisional board who is or during the preceding year was a member of the divisional board or who has or during the preceding year had any direct or indirect interest in any contract or any employment with the divisional board other than for services within his professional capacity, and every auditor, upon appointment, shall make and subscribe a declaration to that effect.

Duties of auditor

(3) An auditor of a divisional board shall perform such duties as are prescribed by the Department and by the Department of

Municipal Affairs and also such duties as may be required by the divisional board that do not conflict with the duties prescribed by the Department and the by Department of Municipal Affairs.

Rights of auditor

(4) An auditor of a divisional board has right of access at all reasonable hours to all books, records, documents, accounts and vouchers of the divisional board and is entitled to require from the members and officers of the divisional board such information and explanation as in his opinion may be necessary to enable him to carry out his duties.

Auditor may take evidence

R.S.O. 1970, c. 379

(5) An auditor of a divisional board may require any person to give evidence on oath touching any of such matters, and for such purpose has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*.

Auditor may attend meetings

(6) An auditor of a divisional board is entitled to attend any meeting of the divisional board or of a committee thereof and to receive all notices relating to any such meeting that any member is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor.

Publication of financial statements

(7) The treasurer of every divisional board in every year shall, within one month after receiving the auditor's report on the financial statements of the divisional board, cause to be published or to be mailed or delivered to each ratepayer a copy of the balance sheet or sheets and the corresponding statements of surplus as of the 31st day of December of the preceding year and a statement of revenue and expenditure for the preceding year, or a summary thereof, in such form as the Department may prescribe, together with a copy of the report of the auditor.

Idem

(8) Where in any year a tax notice is mailed to each ratepayer before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy or summary and the report under subsection 7 cause to be included with such notice the copy or summary and the report.

Filing of financial statements

(9) The treasurer of every divisional board in every year shall prepare the financial statements of the divisional board and, upon receiving the auditor's report thereon, shall forthwith submit two copies of the financial statements together with a copy of the auditor's report to the Department. 1968, c. 122, s. 8, *part*.

Composition of board for defined city, members elected by public school electors

R.S.O. 1970, c. 385

37.—(1) Where a school division comprises only a defined city, the members of the divisional board to be elected by public school electors shall be elected in the same manner and number as the trustees of a public school board in an urban municipality, and the provisions of *The Public Schools Act* with respect thereto apply *mutatis mutandis*.

(2) In addition to the members elected under subsection 1, the separate school supporters in the defined city shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected under subsection 1 by the ratio of the residential and farm assessment of the property rateable for separate school purposes in the defined city to the residential and farm assessment of the property rateable for public school purposes in the defined city, according to the last revised assessment roll, but in no case shall the number of members to be elected under this subsection be fewer than two. 1968, c. 122, s. 8, *part*. Members elected by separate school supporters

(3) The members to be elected under subsection 2 shall be elected as provided in subsection 19 of section 38, which subsection applies *mutatis mutandis*, and otherwise in the same manner as the members under subsection 1. 1970, c. 63, s. 10. Election of members by separate school supporters in defined city

(4) The members of a divisional board elected under subsections 1 and 2 shall hold office for the same term as the members of council of the defined city and until their successors are elected and a new board organized. 1968, c. 122, s. 8, *part*. Term of office

38.—(1) In this section, Interpretation

(*a*) "equalized residential and farm assessment" means the residential and farm assessment as adjusted by the application of the equalization factor based on the assessment referred to in clause *c*, provided by the Department of Municipal Affairs;

(*b*) "population" means the population as determined under *The Municipal Unconditional Grants Act* for the purposes of that Act; R.S.O. 1970, c. 293

(*c*) "residential and farm assessment" for the purposes of subsection 4, 5, 6, 12, 13, 14, 22 or 23 means the residential and farm assessment upon which taxes are levied in the year in which the determination referred to in such subsection is made and, for the purposes of subsection 21 or 25, means the residential and farm assessment upon which taxes are levied in the year in which nominations are held under subsection 21 or 25. 1968, c. 122, s. 8, *part*, *amended*.

(2) Subject to subsections 4, 5 and 6, the number of members on a divisional board, except a divisional board of a defined city, shall be determined by the total population of the municipalities, not including any territory without municipal organization that is deemed a district municipality, within the school division, as follows, where the population is, Composition of board for other than defined city

(*a*) less than 50,000, fourteen members;

(*b*) 50,000 or more but less than 100,000, sixteen members;

(*c*) 100,000 or more but less than 150,000, eighteen members;

(*d*) 150,000 or more, twenty members,

provided that where a school division in the territorial districts comprises fewer than four municipalities, not including any territory without municipal organization that is deemed a district municipality, where the population of such municipalities in the school division is,

(*e*) less than 3,500, five members;

(*f*) 3,500 or more but less than 5,000, eight members; and

(*g*) 5,000 or more but less than 10,000, ten members. 1968, c. 122, s. 8, *part*; 1968-69, c. 115, s. 40 (1).

Change in number of members

(3) Where it becomes evident from the population of the municipalities in a school division that the number of members on a divisional board should be increased or decreased in accordance with subsection 2, at the next election of members the proper number of members shall be elected.

Number of members to be elected by public school electors

(4) The public school electors of the school division shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for public school purposes in the school division to the equalized residential and farm assessment of all the rateable property in the school division, but in no case shall the number of members to be elected under this subsection,

(*a*) be fewer than six where the number of trustees under subsection 2 is fourteen or more; or

(*b*) be fewer than four where the number of trustees under subsection 2 is fewer than fourteen.

Number of members to be elected by separate school supporters

(5) The separate school supporters in the school division shall elect the number of members equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members to be elected under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the school division to the equalized residential and farm assessment of all the rateable property in the school division, but where the product obtained is less than one, one member shall be elected under this subsection. 1968, c. 122, s. 8, *part*.

(6) In a school division the number of members to be elected by the public school electors, Number of members to be elected by public school electors in a school division in a city and in county or district municipalities

(*a*) of each city shall be equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of members determined under subsection 4 by the ratio of the equalized residential and farm assessment of the property rateable for public school purposes in the city of the equalized residential and farm assessment of all the property rateable for public school purposes in the school division; and

(*b*) of the county or district municipalities shall be the number of members determined under subsection 4 less the total number of members determined under clause *a* for the city or cities, if any, but in no case shall the number of members to be elected under this clause be fewer than one. 1968, c. 122, s. 8, *part*; 1968-69, c. 115, s. 40 (2), *amended*.

(7) Before the 1st day of September in the year in which an election is to be held, a determination shall be made, When determination to be made under subss. 4-6

(*a*) under subsections 4, 5 and 6 if it is determined under subsection 3 that the number of members of the divisional board should be increased or decreased or if one or more municipalities are attached to or detached from the school division under subsection 1 of section 45 effective the 1st day of January next following the election;

(*b*) under subsection 6 if,

(i) the boundaries of one or more cities within the school division have been altered or a new city has been erected in the school division subsequent to the latest determination made under subsection 6 that did not take into account the altered boundaries or the new city, or

(ii) the boundaries of one or more cities within the school division are to be altered or a new city is to be erected effective on the 1st day of January of the year next following the election; and

(*c*) under subsections 4, 5 and 6 in every fourth year following the latest determination under subsections 4 and 5,

and a determination made under subsection 4, 5 or 6 is effective until a new determination is required in accordance with this subsection. 1970, c. 63, s. 11 (1).

Where city does not qualify for at least one member to be elected by public school electors

(8) Where a city is not entitled to one or more members under clause *a* of subsection 6, the city shall be deemed to be a county or district municipality for the purposes of subsection 6 or 9, and the clerk of the city shall be deemed to be a clerk of a county or district municipality for the purposes of subsection 9. 1968, c. 122, s. 8, *part*.

Distribution of members to be elected by public school electors in county or district municipalities

(9) With respect to,

(*a*) the county municipalities, except those in a regional municipality that are in a school division, the council of the county;

(*b*) the county municipalities, in a regional municipality that are in a school division, the clerks of the three county municipalities having successively the greatest residential and farm assessment for public school purposes in the school division according to the last revised assessment roll as adjusted by the application of the equalization factor based on such assessment provided by the Department of Municipal Affairs; and

(*c*) the district municipalities in a school division, the clerks of the three organized district municipalities having successively the greatest residential and farm assessment for public school purposes in the school division according to the last revised assessment roll as adjusted by the application of the equalization factor based on such assessment provided by the Department of Municipal Affairs, and the clerk of each town or village in which a secondary school is located in the school division, and, where there are fewer than three organized district municipalities in the school division, the clerks of all such municipalities,

shall determine the municipality or municipalities to be represented by each member to be elected in the school division by the public school electors under clause *b* of subsection 6, but in no case shall the determination provide for a member to be elected by a general vote of all the public school electors of the municipalities other than cities in the school division, and such determination is effective for a period of four years or until the number of members for the school division is increased or decreased under subsection 3 or the boundaries of one or more county or district municipalities within the school division are altered or are to be altered effective the 1st day of January next following the election.

When determination to be made

(10) Before the 1st day of September in each year in which an election is to be held, the determination under subsection 9 shall be made if,

(*a*) a determination is made in accordance with subsection 7;

(*b*) the boundaries of one or more county or district municipalities have been altered subsequent to the latest determination under subsection 9, or are to be altered effective the 1st day of January next following the election; or

(*c*) the boundaries of the school division are altered, or are to be altered under subsection 2 of section 28 effective the 1st day of January next following the election.

Where judge to make determination

(11) Where the determination is not made before the 1st day of September, the clerk of the county municipality or of the organized district municipality having the greatest residential and farm assessment for public school purposes in the school division according to the last revised assessment roll as adjusted by the application of the equalization factor based on such assessment provided by the Department of Municipal Affairs, as the case may be, shall refer the matter to the judge who shall make the determination before the 1st day of October in accordance with subsection 12. 1970, c. 63, s. 11 (2).

Determination

(12) In determining under subsection 9,

(*a*) the number of members to be elected by the public school electors of a county or district municipality; or

(*b*) the county or district municipalities that are to be combined for the election of one or more members by the public school electors of such municipalities,

the council of the county or the clerks of the district municipalities, or the clerks of the county municipalities in a school division in a regional municipality, as the case may be, shall apportion the number of members determined under clause *b* of subsection 6, as nearly as is practicable, in the proportion that the equalized residential and farm assessment of the property rateable for public school purposes in the municipality or combined municipalities bears to the total equalized residential and farm assessment of the property rateable for public school purposes in all the county or district municipalities in the school division and shall, in so far as it is practicable to do so, combine municipalities that are adjoining. 1968, c. 122, s. 8, *part*; 1970, c. 63, s. 11 (3).

Idem

(13) Notwithstanding subsection 12, where the equalized residential and farm assessment of the property rateable for separate school purposes in a school division in a territorial district is less than 5 per cent of the equalized residential and farm assessment of all the rateable property in the school division, and where equalized residential and farm assessment of the property rateable for public school purposes in a municipality, expressed as a percentage of the total residential and farm assessment of all such property in the school division, differs by fifteen or more percentage points from the population of the municipality expressed as a

percentage of the total population of all the municipalities comprising the school division, the clerks of the district municipalities shall apportion the number of members determined under clause *b* of subsection 6, as nearly as is practicable, in the proportion that the population of a municipality or combined municipalities bears to the total population of all the municipalities comprising the school division, and the right of appeal as provided in subsection 14 shall be based upon population rather than equalized residential and farm assessment, which subsection shall apply *mutatis mutandis*. 1968, c. 122, s. 8, *part*.

Appeal from determination

(14) Where the determination made under subsection 9 allots to a municipality or to a combination of municipalities a percentage of the total number of members to be elected by the public school electors of all the county or district municipalities in the school division that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for public school purposes in the municipality or combination of municipalities is of the total equalized residential and farm assessment of the property rateable for public school purposes in all the county or district municipalities in the school division, the council of the municipality or the council of any one of such combination of municipalities, as the case may be, may, within fifteen days after notice of the determination has been sent, appeal the determination to the county or district judge who shall either reapportion the number of members in accordance with subsection 12 or, where he determines that the determination was made in accordance with subsection 12, confirm the determination, and his decision is final. 1970, c. 63, s. 11 (4).

Information for determinations

(15) The clerk of each city and of each county or district municipality in a school division and the secretary of the divisional board shall provide to the persons required to make a determination under this section, on their request, the information required for such purpose. 1970, c. 63, s. 11 (5).

By whom determination to be made

(16) The clerk of the county and the clerk of the organized district municipality or of the county municipality in a school division in a regional municipality having the greatest residential and farm assessment for public school purposes in the school division according to the last revised assessment roll as adjusted by the application of the equalization factor, based on such assessment, provided by the Department of Municipal Affairs, shall,

(*a*) make the determinations required under subsections 2, 4, 5, 6 and 22 with respect to a school division in a county or a regional municipality or in territory without municipal organization, as the case may be; and

(*b*) send by registered mail to the clerk of each city and of each county or district municipality in the school division and to the secretary of the divisional board,

(i) before the 1st day of September in each year in which it is determined under subsection 3 that the number of members of the divisional board should be increased or decreased or in which a determination is made under subsection 9 or 23, a copy of each of the determinations made under subsections 4, 5, 6, 9, 22 and 23, and

(ii) before the 1st day of October in each year in which a determination is made by the judge under subsection 11 or 23, a copy of the determination. 1970, c. 63, s. 11 (6).

Questions to be determined by judge

(17) The council of any municipality concerned and a divisional board on behalf of any territory without municipal organization that is deemed a district municipality may, within ten days of the mailing of the determination made under subsection 4, 5, 6 or 22 appeal to the judge with respect to the accuracy of the determination and his decision is final, and the clerk of the county or the clerk of the county or district municipality responsible for making such determination shall make such changes in such determination as the judge requires. 1968, c. 122, s. 8, *part*; 1970, c. 63, s. 11 (7).

New determination where former determination improper

(18) Where the council of a municipality or a divisional board on behalf of any territory without municipal organization that is deemed a district municipality, after the period allowed for an appeal under this section and notwithstanding a decision made in respect of such appeal, is of the opinion that the composition of the board of a school division was not determined in accordance with the provisions of this section, the council or the board may, before the 1st day of May in the year of the next following election, apply to the judge to have the determination set aside and, where the judge finds that the determination was not made in accordance with the provisions of this section, he shall order a new determination to be made, and the determination so made, subject to an appeal under subsection 14 or subsection 17, shall apply to the election next following such determination, and the divisional board in respect of which the application to the judge is made shall be deemed to have been properly constituted notwithstanding any defect in its composition.

Election by public school electors and by separate school supporters

(19) The number of members to be elected in a municipality shall be elected by a general vote of the public school electors or separate school supporters, as the case may be, in the municipality, provided that, where it is determined under this section that the number of members to be elected to the divisional board by the public school electors in a municipality or by the separate

school supporters in a municipality is two or more, the council of the municipality may by by-law divide the municipality into two or more areas and provide for the election of one or more of such members by the public school electors or separate school supporters, as the case may be, in each of such areas. 1968, c. 122, s. 8, *part*; 1970, c. 63, s. 11 (9).

Time for passing by-law

(20) A by-law for the purpose mentioned in subsection 19 and a by-law repealing any such by-law shall not be passed later than the 1st day of November in the year of the election and shall take effect for the purpose of the election next after the passing of the by-law and remains in force until repealed. 1970, c. 63, s. 11 (10).

Election by public school electors in county and district municipalities

(21) Where it is determined under subsection 9 that two or more county or district municipalities shall be combined for the purposes of the election of one or more members, such member or members shall be elected by a general vote of the public school electors of such combined area, and,

(*a*) the nominations for such members shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for public school purposes in the combined area, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*b*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *a*, who shall prepare the final summary and announce the vote. 1968, c. 122, s. 8, *part*; 1970, c. 63, s. 11 (11).

Number of members to be elected by separate school supporters in cities and county or district municipalities

(22) Where a school division includes county or district municipalities and one or more cities, and the number of members to be elected by the separate school supporters under subsection 5 exceeds one, the number of members to be elected by the separate school supporters of each city and of the county or district municipalities shall be determined in accordance with subsections 6, 7 and 8, which subsections apply *mutatis mutandis*, except that the equalized residential and farm assessment of the separate school supporters shall be used in the determinations.

Distribution of members to be elected by separate school supporters

(23) Where it is determined under subsection 5 or 22 that the number of members to be elected by the separate school supporters of the county or district municipalities in the school division exceeds one, the county or district municipalities to be represented by each such member shall be determined in accordance with

subsections 9, 10, 11, 12 and 14, which subsections apply *mutatis mutandis*, except that,

(*a*) the equalized residential and farm assessments of the separate school supporters shall be used in all the determinations; and

(*b*) the reference in subsection 9 to the clerk of a town or village in which a secondary school is located in the school division shall be deemed to refer only to a town or village that is a separate school zone.

Election of members by separate school supporters

(24) Where the number of members,

(*a*) determined under subsection 5, is one, such member shall be elected by a general vote of the separate school supporters of the school division; or

(*b*) to be elected by the separate school supporters of the county or district municipalities under subsection 22 is one, such member shall be elected by a general vote of the separate school supporters of the county or district municipalities in the school division.

Idem

(25) Where,

(*a*) one member is to be elected by a general vote of the separate school supporters of a school division or of the separate school supporters of the county or district municipalities in a school division; or

(*b*) two or more municipalities are combined for the purposes of the election of one or more members by the separate school supporters,

then,

(*c*) the nominations for such member or members shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for separate school purposes in the school division, in the county or district municipalities in the school division or in the combined area, as the case may be, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*d*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *c*, who shall prepare the final summary and announce the vote. 1970, c. 63, s. 11 (12).

Secretary of board deemed clerk for elections in areas deemed district municipalities

(26) For the purposes of clause *b* of subsection 21 and clause *d* of subsection 25, the secretary of the divisional board of a school division shall be the clerk of each part of territory without municipal organization that is deemed a district municipality in the school division. 1968, c. 122, s. 8, *part*.

Term of office

(27) The members of a divisional board to be elected under this section shall be elected for a term of two years and shall hold office until their successors are elected and a new board is organized. 1968, c. 122, s. 8, *part*, *amended*.

Biennial elections

(28) An election of members of a divisional board, except a divisional board of a defined city, shall take place in the year 1968 and in every second year thereafter. 1970, c. 63, s. 11 (13), *part*.

Election by ballot

R.S.O. 1970, c. 385

(29) The members of a divisional board to be elected under this section shall be elected in the same manner as the election of a mayor or reeve and, except as otherwise provided in this Part, all the provisions of *The Public Schools Act* respecting the election of trustees by ballot apply to the election. 1968, c. 122, s. 8, *part*.

Where no municipal election in any year

(30) Where, in a municipality other than a defined city, there is no provision for municipal elections in the year 1968 or in any second year thereafter, the council of the municipality shall provide for the election of members of the divisional board in the year 1968 and in every second year thereafter.

Manner of election

(31) An election of members of a divisional board shall be conducted in the same manner as municipal elections and,

(*a*) the meetings of electors for the nomination of candidates for a divisional board, except a divisional board of a defined city, shall be held on the second Monday preceding the first Monday in December;

(*b*) the day for polling, except in the case of the election of the members of a divisional board of a defined city, shall be the first Monday in December, and the polls shall be open between the hours of 10 o'clock in the forenoon and 8 o'clock in the afternoon except that, where a municipal election is held on the same day, the polls shall be open between the same hours as for the municipal election;

(*c*) the council of every municipality in which a nomination meeting is to be held shall, before the 1st day of November in the year 1968 and in every second year thereafter, pass a by-law naming the date, time and place at which the nomination meeting shall be held, and the clerk of such municipality shall, within forty-eight hours of the passing of the by-law, notify the returning officer of each municipality concerned who shall advertise the date, time and place of the nomina-

tion meeting as provided in section 46 of *The Municipal Act*; and R.S.O. 1970, c. 284

(*d*) the council of a municipality may by by-law provide for advance polls, and section 91 of *The Municipal Act* applies *mutatis mutandis*.

Voters' list

(32) The list of voters to be used in an election of members of a divisional board is,

(*a*) the voters' list prepared, revised and certified for use in the municipal election in the year of the election of the divisional board; or

(*b*) where no municipal election is to be held in a municipality in the year of the election of the divisional board, the last revised voters' list for the municipality completed in accordance with *The Voters' Lists Act*; or R.S.O. 1970, c. 485

(*c*) in territory without municipal organization, the last revised assessment roll, excepting therefrom the names of persons who are not British subjects and of persons who are not of the full age of twenty-one years.

Adding names to list of voters

(33) Where, in a municipality in which no municipal election is to be held in the year of the election of the divisional board or in territory without municipal organization, the name of a person has been entered on the last revised assessment roll or has been added to the assessment roll under section 44 of *The Assessment Act*, and the clerk is satisfied that the person is entitled to have his name entered on the list of voters and his name has not been entered thereon, he may issue a certificate in Form 10 to *The Municipal Act*, authorizing the returning officer or proper deputy returning officer to enter the name of the person on such list. 1970, c. 63, s. 11 (13), *part*. R.S.O. 1970, cc. 32, 284

Expenses for certain elections to be repaid to municipality

(34) Where the council of a municipality is required to provide for an election of members of a divisional board in a year other than a year in which the election of the members of the council is held, the divisional board shall forthwith after its organization reimburse the treasurer of the municipality for the reasonable expenses incurred by the clerk or any other officer of the municipality for advertising the times and places of nomination meetings and of polls, for printing, for providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, for the transmission of packets, and for reasonable fees and allowances for services rendered respecting the election of members of the divisional board, excluding the cost of preparing the voters' list. 1970, c. 63, s. 11 (14).

Qualifications of members

39.—(1) A person is qualified to be elected as a member of a divisional board of a school division,

(*a*) who is a Canadian citizen;

(*b*) who is of the full age of twenty-one years;

(*c*) who is a resident within the school division; and

(*d*) who,

(i) in the case of the election of members by public school electors, is a public school elector, and

(ii) in the case of the election of members by separate school supporters, is a separate school supporter. 1968, c. 122, s. 8, *part*; 1968-69, c. 115, s. 41 (1).

Retiring members eligible for re-election

(2) The members retiring at the expiration of the terms for which they were respectively elected are eligible for re-election if otherwise qualified. 1968, c. 122, s. 8, *part*.

Disqualifications

(3) A person is not qualified to be elected or to act as a member of a divisional board,

(*a*) who is,

(i) a member of any other board, or

(ii) a member of the council of a municipality, including a regional municipality, all or part of which is included in the area of jurisdiction of the board, or

(iii) an elected member of a local board of a municipality all or part of which is included in the area of jurisdiction of the board,

and whose term of office has at least two months to run after the day on which the nomination meeting for a new election is to be held unless before the opening of the nomination meeting he has filed his resignation with the secretary of the other school board or with the clerk of the municipality, as the case may be;

(*b*) who is the clerk or treasurer of a county or municipality, including a regional municipality, all or part of which is included in the area of jurisdiction of the board;

(*c*) who is otherwise disqualified under this or any other Act; or

(*d*) if any portion of the taxes levied for the preceding year or years on the property in respect of which the person qualifies is overdue and unpaid at the time of the opening of the nomination meeting, provided that this clause does not apply where the person is a tenant of the property and the taxes in respect thereof are, under the terms of the tenancy, payable by the owner of the property, and the rental thereof is not overdue and unpaid at the time of the opening of the nomination meeting.

(4) A person is qualified to act as a member of a divisional board during the term for which he was elected so long as he continues to have the qualifications mentioned in subsection 1 and does not become disqualified under clauses *a*, *b* and *c* of subsection 3. Qualification to act as member

(5) No person shall qualify himself as a candidate for more than one seat on a divisional board, and any person who so qualifies himself and is elected to hold one or more seats on the divisional board is not entitled to sit as a member of the board by reason of the election, and his seat or seats are thereby vacated. 1968-69, c. 115, s. 41 (2). Person not to be candidate for more than one seat

40.—(1) Every person qualified to vote for members of a divisional board to be elected by the public school electors in a city or in a county or district municipality or in a part of any of them, or in a combination of such municipalities, is entitled to as many votes as there are members to be elected by the public school electors in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate. Number of votes for candidates

(2) Every person qualified to vote for members of a divisional board to be elected by the separate school supporters in a city or in a county or district municipality or in a part of any of them, or in a combination of such municipalities, is entitled to as many votes as there are members to be elected by the separate school supporters in such municipality or part, or combination of municipalities, as the case may be, but may not give more than one vote to any one candidate. 1968, c. 122, s. 8, *part*. Idem

41. Every proposer and seconder of a candidate nominated for the office of a member to be elected, Qualifications for proposers and seconders of candidates

(*a*) by public school electors, shall be a public school elector; and

(*b*) by separate school supporters, shall be a separate school supporter. 1968, c. 122, s. 8, *part*.

42.—(1) Where the office of a member of a divisional board elected by public school electors becomes vacant from any cause before the expiration of the term for which he was elected, it shall be filled in the manner provided in section 22 of *The Public Schools Act* for filling a vacancy on a public school board in an urban municipality, which section applies *mutatis mutandis*, except that, for the purposes of this subsection, the references to "remaining trustees" and to "majority of the membership of the board" shall be deemed to be references to "remaining members elected by public school electors" and to "majority of the members of the divisional board elected by public school electors". 1968, c. 122, s. 8, *part*. Vacancy in office of member

R.S.O. 1970, c. 385

Vacancy in office of member elected by separate school supporters

(2) Where the office of a member of a divisional board elected by separate school supporters becomes vacant from any cause before the expiration of the term for which he was elected, except where the vacancy occurs within one month before the next ensuing election, in which case the office shall remain vacant until the election, and where,

(*a*) the remaining members elected by separate school supporters constitute a majority of the members of the divisional board elected by separate school supporters, a majority of such remaining members shall, at the first regular meeting after the vacancy occurs, elect some qualified person to fill the vacancy; or

(*b*) there are no remaining members who were elected by separate school supporters or the remaining members elected by separate school supporters are not a majority of the members elected by separate school supporters, the vacancy shall be filled by appointment by the board of the separate school zone that had the highest average daily enrolment for the preceding year of pupils below Grade 9 who resided in the school division, as certified by the appropriate supervisory officer,

and the person so elected or appointed shall hold office for the remainder of the term of his predecessor.

All offices vacant

(3) Notwithstanding subsection 2, where the offices of all members of a divisional board become vacant from any cause, a new election shall be held to fill all such vacancies, and every member so elected shall hold office for the remainder of the term for which his predecessor was elected.

Election to fill vacancy

(4) Where an election is required to fill a vacancy on a divisional board of education, the nomination shall be held on the third Monday following the day on which the office becomes vacant and the polling shall be held on the second Monday following the day of nomination, and the nomination and polling shall be held in the same manner and at the same times as for the office that became vacant. 1968-69, c. 115, s. 42.

Right of certain pupils to attend school in another school division R.S.O. 1970, cc. 111, 385, 424

43.—(1) Where, on the 31st day of December, 1968, a pupil is enrolled in a public or secondary school that he has a right to attend and the school on and after the 1st day of January, 1969, is situated in a school division other than the school division in which the pupil resides, the pupil has, in addition to any other right that he may have under *The Department of Education Act*, *The Public Schools Act*, *The Schools Administration Act* or this Act, subject to subsection 5 of section 63, the right to attend the school until he completes his education in the school.

Idem

(2) Where any part of a school section or secondary school district, after the 1st day of January, 1969, forms part of a school

division other than the school division in which the school that the pupils resident in such part had a right to attend on the 31st day of December, 1968, is situate, all pupils who reside in such part after the 1st day of January, 1969, may attend such school until the divisional boards concerned agree to other arrangements for the accommodation of such pupils. 1968, c. 122, s. 8, *part*.

Application of subss. 1, 2

(3) Subsections 1 and 2 do not extend the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or under an agreement between two or more boards or between a board and the Crown in right of Canada. 1968-69, c. 115, s. 43.

Director of education

44.—(1) A divisional board having an enrolment in its public and secondary schools on the first school day of 1969 of 2,000 or more shall, on or before the first day of August, 1969, appoint a director of education who shall be the chief education officer of the board, and he shall hold the qualifications required by the regulations.

Idem

(2) A divisional board having an enrolment in its public and secondary schools of 2,000 or more on the 30th day of September, 1969, or of any year thereafter, shall, on or before the 1st day of August of the year following, appoint a director of education who shall be the chief education officer of the board, and he shall hold the qualifications required by the regulations.

Supervisory officers

(3) A divisional board having an enrolment in its public and secondary schools of fewer than 2,000 may appoint such supervisory officers as are approved by the Minister. 1968. c. 122, s. 8, *part*.

Amalgamation and alteration of school divisions

45.—(1) With the approval of the Lieutenant Governor in Council and in accordance with the regulations, effective on the 1st day of January of the year 1971 or of any second year thereafter,

(*a*) two or more adjoining school divisions may be combined to form one school division, and the board of the combined school division shall be a divisional board of education; and

(*b*) one or more municipalities may be detached from a school division and attached to an adjoining school division.

Idem

(2) Where two or more school divisions are combined,

(*a*) the divisional board of each such school division is dissolved; and

(*b*) all real and personal property vested in the board of each such school division becomes vested in the divisional board of the combined school division,

upon the date upon which a divisional board is organized for the combined school division. 1968, c. 122, s. 8, *part*.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the terms and conditions upon which and the manner in which,

(i) two or more adjoining school divisions may be combined, or

(ii) the boundaries of a school division may be altered;

(*b*) assigning a name to the divisional board of a combined school division;

(*c*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part. 1968, c. 122, s. 8, *part*; 1968-69, c. 115, s. 44.

Application of this part

46.—(1) Notwithstanding the provisions of any special Act, this Part applies to every public school board, secondary school board, board of education, county, municipality and person in accordance with the provisions of this Part.

Application of this Act and R.S.O. 1970, c. 385

(2) The provisions of *The Public Schools Act* and of this Act that are not inconsistent with this Part shall be read as part of this Part and shall apply to divisional boards, and so far as such provisions are inconsistent with the provisions of this Part, they do not apply to divisional boards. 1968, c. 122, s. 8, *part*, *amended*.

PART V

FRENCH-LANGUAGE SECONDARY SCHOOLS

Interpretation

47. In this Part,

(*a*) "board" means a divisional board of education or a board of education of an area municipality as defined in *The Municipality of Metropolitan Toronto Act*;

R.S.O. 1970, c. 295

(*b*) "committee" means a French-language committee for secondary school purposes formed under this Part. 1968, c. 122, s. 10, *part*.

French-language schools or classes

48.—(1) A board may establish and maintain secondary schools or classes in secondary schools for the purpose of providing for the use of the French language in instruction, or may enter into an agreement with another board to provide for such instruction in the school or schools maintained by the latter board for resident pupils of the first-mentioned board.

Idem

(2) Where for secondary school purposes in a school division a sufficient number of pupils who elect to be taught in the French

language can be assembled for this purpose in classes or groups of twenty or more in each program or branch, the board shall provide for the use of the French language in instruction in such classes or groups, and where, in the opinion of the board, the number of such pupils so warrants, the board shall provide for the use of the French language in instruction in a composite school.

Application to boards of education, etc.

(3) Subsection 1 applies *mutatis mutandis* to boards of education and secondary school boards. 1968, c. 122, s. 10, *part*.

Establishment of committee

49.—(1) Where,

(*a*) ten or more French-speaking ratepayers of a school division apply in writing to the board for the establishment or extension in a secondary school of a class, group or program in which the French language is or is to be used in instruction; or

(*b*) the board establishes or extends or decides to establish or extend a class, group or program in which the French language is or is to be used in instruction,

the board shall, within two months of the application, establishment, extension or decision to establish or extend, provide for the establishment of a committee, which shall be an advisory committee of the board.

Composition

(2) The committee shall consist of seven members and shall be composed of,

(*a*) three members of the board appointed by the board; and

(*b*) four French-speaking ratepayers who are not members of the board but have the qualifications required for members of the board, elected by the French-speaking ratepayers of the school division, except that a ratepayer elected to the committee may be a member of an elementary school board.

Term of office

(3) A member of a committee shall hold office during the term of the members of the board and until a new board is organized.

First meeting of French-speaking ratepayers

(4) The board shall make provision for a meeting of the French-speaking ratepayers of the school division to elect members to the committee, and shall advertise in each of its schools the place and time of the meeting, and shall take such additional action to publicize the meeting as it considers expedient.

Additional members

(5) The committee may, in any year, at a meeting called for the purpose and for which notice has been given to all members, appoint to the committee one or two additional French-speaking ratepayers as it considers necessary, who shall have the qualifications of an elected member.

Idem

(6) The board shall appoint to the committee one or two additional members of the divisional board, as the case may be, to equal the number of additional members appointed under subsection 5. 1968, c. 122, s. 10, *part*.

French-speaking ratepayers to elect subsequent members to committee

50. Where a committee has been established and a new board has been elected, a meeting of the French-speaking ratepayers in the school division, to elect members to the committee and to consider any other matters brought before it, shall be held on the second Wednesday following the first meeting of the newly-elected board, commencing at 8 o'clock in the afternoon at such place as the board may determine, and the provisions of subsection 4 of section 49 respecting the publicizing of the meeting apply. 1968, c. 122, s. 10, *part*.

Election of chairman of meeting

51.—(1) The secretary of the board shall call to order the meetings of the French-speaking ratepayers under sections 49 and 50 and shall preside at the meeting for the purpose of electing a chairman of the meeting.

Secretary of meeting

(2) The chairman of the meeting shall appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required by the chairman.

Procedure at meeting

(3) The chairman shall preside at the meeting and shall hold the election of members of the committee and submit all motions to the meeting in the manner desired by the majority, and the chairman is entitled to vote on any motion, and, in the case of a tie vote with respect to the election of members of the committee, the chairman shall provide for drawing lots to determine which of the candidates is elected, and, in the case of a tie vote on a question, the question is deemed to be negatived.

Notice of result of election

(4) Notice in writing shall be given by the secretary of the meeting to the secretary of the board designating by their names and addresses the persons elected as members of the committee. 1968, c. 122, s. 10, *part*.

Chairman of committee

52.—(1) At the first meeting of the committee, the members shall elect one of themselves as chairman.

Quorum

(2) A majority of all the members constituting the committee is necessary to form a quorum, and the vote of a majority of the members present at a meeting is necessary to bind the committee.

Vote of chairman, equality of votes

(3) On every question, the chairman may vote, and any question on which there is an equality of votes shall be deemed to be negatived.

Special meeting

(4) A special meeting of the committee may be called by the chairman of the committee and shall be called by the chairman

upon the request in writing of two members of the committee who shall specify the objects for which the meeting is to be held, and the objects shall be stated in the notice calling the meeting. 1968, c. 122, s. 10, *part*.

Vacancies

53. Every vacancy on a committee for any cause shall be filled by appointment by the board in the case of appointed members and by the elected members of the committee in the case of elected members, and every person so appointed shall hold office for the unexpired term of the member whose seat has become vacant. 1968, c. 122, s. 10, *part*.

Committee to report to board

54.—(1) The committee shall report at each regular meeting of the board.

Recommendations

(2) The committee shall make recommendations to the board with respect to ways and means of meeting the educational and cultural needs of the French-speaking pupils, and shall co-operate with all committees of the board with respect to,

(*a*) suitable sites, accommodation and equipment for the purposes of section 48;

(*b*) the use of the French language in instruction and the related courses of study;

(*c*) the appointment of the required teaching, supervisory and administrative staff;

(*d*) the establishment of special classes for adults in a French-language secondary school; and

(*e*) the use of any facilities for instruction in the French language that are considered desirable to foster the educational and cultural needs of the French-speaking community.

Board to consider report and recommendations

(3) The board shall consider any report or recommendation submitted to it by the committee, and shall not refuse its approval without having given the committee an opportunity to be heard by the board or by any committee thereof to which such report or recommendation is referred. 1968, c. 122, s. 10, *part*.

Services to be provided by board

55.—(1) The board shall make available to the committee such personnel and services as the board considers necessary for the proper functioning of the committee.

Honorarium, expenses

(2) A board may pay to each member of the committee who is not a member of the board an honorarium not exceeding $25 for each month that he is a member of the committee, and subsections 5, 6 and 7 of section 40 of *The Schools Administration Act* apply *mutatis mutandis* to the members of the committee. 1968, c. 122, s. 10, *part*.

R.S.O. 1970, c. 424

English subject required in grades 9 to 12

56. Notwithstanding any other provisions in this Part, English shall be an obligatory daily subject of instruction for all pupils of grades 9 to 12 inclusive and shall be a required subject for each certificate and diploma issued for standing in these grades. 1968, c. 122, s. 10, *part*.

English-language classes where French-language school or classes established

57. Where a board has established a secondary school or classes in a secondary school under section 48 and where a sufficient number of pupils who elect instruction in the English language can be assembled, the board shall provide such instruction, and the provisions of section 48 apply *mutatis mutandis* in respect of such pupils. 1968, c. 122, s. 10, *part*.

Admission of pupils other than French-speaking pupils

58. On the request of a parent or guardian of a pupil, a board of a school division may admit such pupil to classes formed under section 48 if such pupil has a right to attend a secondary school in the school division and the principal is satisfied that the attendance of such pupil will not delay the progress of the French-speaking pupils. 1968, c. 122, s. 10, *part*.

PART VI

GENERAL

Declaring schools open

59.—(1) The board of a secondary school district may by resolution or by-law declare all or any of its schools open to the resident pupils of any secondary school district. 1967, c. 91, s. 12, *part*.

Revocation of declaration

(2) Where a school is declared open under this section, the board may, before the 30th day of June in any year, pursuant to a resolution or by-law give notice in writing to the secretary of the board of the secondary school district concerned that the school or schools will no longer be open to the resident pupils, and upon the giving of such notice such resident pupils may continue to attend the school or schools only until the expiration of two school years after the 30th day of June in that year. 1964, c. 106, s. 14, *part*.

Agreements for education at outside schools

60.—(1) A secondary school board that has established one or more secondary schools may enter into an agreement with another secondary school board to provide for the instruction, in the school or schools maintained by the latter board, of resident pupils of the first-mentioned board. R.S.O. 1960, c. 362, s. 66 (1).

Idem

(2) The council of a municipality having a population of 2,000 or more in a territorial district which, or part of which, has not been established as or included in a secondary school district shall enter into an agreement with a secondary school board to provide

for the instruction, in the school or schools maintained by the board, of the pupils of the municipality or part of the municipality. R.S.O. 1960, c. 362, s. 66 (2); 1965, c. 119, s. 14.

Admission to grade 9

61.—(1) Where a pupil has been promoted from grade 8 to grade 9 in the manner prescribed by the regulations, he shall be admitted to grade 9.

Idem

(2) An applicant who has not been promoted from grade 8 to grade 9 in the manner prescribed by the regulations shall be admitted to grade 9 if the principal has satisfied himself that the applicant is competent to undertake the work of that grade.

Admission to grades 10-13

(3) An applicant for admission to grade 10, 11, 12 or 13 shall be admitted if the principal has satisfied himself that the applicant is competent to undertake the work of the grade to which he has applied for admission.

Reduction in grade

(4) Where the principal is not satisfied that an applicant is competent to undertake the work of the grade to which the applicant has applied for admission under subsection 3, he may place him in a lower grade.

Admission to evening courses

(5) An applicant is entitled to enter an evening course of study in a secondary school if, in the opinion of the principal, after due examination or other investigation, he is competent to take up the desired course, but such admission does not entitle him to admission to the secondary school day courses.

Idem

(6) A pupil enrolled in a full-time day course of study in a vocational school shall not be admitted to an evening course of study except with the consent of the vocational school principal. R.S.O. 1960, c. 362, s. 67.

Right of resident pupils to attend school

62.—(1) A resident pupil of a secondary school district has the right to attend a secondary school in his secondary school district. 1964, c. 106, s. 15, *part*.

Resident pupils

(2) Subject to subsections 3, 4 and 6, a resident pupil of a secondary school district has the right to attend any secondary school,

(*a*) that is more accessible to the pupil than any secondary school in his own secondary school district;

(*b*) to take either the four-year or two-year program of the business and commerce branch or of the science, technology and trades branch, or the occupational program, if the program is not available in the secondary school district in which he is resident;

(*c*) to take a course of study in either the four-year program of the business and commerce branch or the four-year program of the science, technology and trades branch,

leading to a type of secondary school graduation diploma that is not available in the secondary school district in which he is resident;

(*d*) to take a special one-year course in business, commercial work, technical subjects, home economics or vocational art, leading to a secondary school graduation diploma in the special field, if the course is not available in the secondary school district in which he is resident;

(*e*) to take a grade 13 subject or subjects not available in his own secondary school district, but required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling;

(*f*) to take a course of study that includes the subject of French for French-speaking pupils in grade 9, 10, 11, 12 or 13 not available in his own secondary school district, but required by the pupil for admission to any university or teacher-training course or for entry into any trade, profession or calling; or

(*g*) to take a subject or course in a French-language school or class if the subject or course is not available in the French language in the secondary school district in which he is resident. 1964, c. 106, s. 15, *part*; 1967, c. 91, s. 13 (1-4); 1968, c. 122, s. 4 (1).

Restrictions

(3) Subsection 2 applies to a resident pupil of a secondary school district in a county only if,

(*a*) the school has been declared open to such a pupil; and

(*b*) the supervisory officer of the school certifies that there is adequate accommodation for the pupil in the school. 1967, c. 91, s. 13 (5).

Idem

(4) Subsection 2 applies to a resident pupil of a secondary school district in a territorial district only if the supervisory officer of the school certifies that there is adequate accommodation for the pupil in the school.

Non-resident pupils

(5) At its discretion, a secondary school board may admit to a school operated by it a pupil who has not the right, under this section, to attend such school. 1964, c. 106, s. 15, *part*.

Where agreement between boards

(6) Clauses *b*, *c*, *d*, *e*, *f* and *g* of subsection 2 do not apply to a resident pupil of a secondary school district if the board of the secondary school district has entered into an agreement with another secondary school board under subsection 2 of section 6 or under section 60 and the courses and subjects referred to in such clauses are offered in the schools covered by the agreement. 1967, c. 91, s. 13 (6); 1968, c. 122, s. 4 (2).

63.—(1) No fees are payable by or in respect of a resident pupil of a secondary school district attending a secondary school maintained by the board of the district. 1964, c. 106, s. 17 (1), *part*. Where no fees payable

(2) Where a resident pupil of a secondary school district attends a secondary school in another secondary school district pursuant to an agreement under subsection 2 of section 6 or under subsection 1 of section 60 or which he has a right to attend under subsection 2 of section 62 or under section 43, the board of the secondary school district of which he is a resident pupil shall pay fees to the board that operates the secondary school attended by the pupil, calculated in accordance with section 72 of *The Schools Administration Act*. 1965, c. 119, s. 15 (1); 1968, c. 122, s. 5. Fees payable R.S.O. 1970, c. 424

(3) Where a pupil attends a secondary school pursuant to an agreement under subsection 2 of section 60, the council of the municipality shall pay fees to the board that operates the secondary school as provided in section 72 of *The Schools Administration Act*. 1965, c. 119, s. 15 (2), *part*. Idem

(4) Where a pupil other than one referred to in subsection 1, 2 or 3 attends a secondary school, the board that operates such school may require a fee to be paid by or on behalf of the pupil as provided in section 72 of *The Schools Administration Act*. 1965, c. 119, s. 15 (2), *part*; 1966, c. 141, s. 8 (1). Idem

(5) Notwithstanding subsections 1, 2 and 3 and section 62, where a pupil, Limitation on right to attend without payment of fee

(*a*) has completed grade 8; and

(*b*) has attended one or more secondary schools for a total of seven or more years,

he shall not be admitted to a secondary school except upon the payment of a fee as provided in section 72 of *The Schools Administration Act*. 1966, c. 141, s. 8 (2).

64.—(1) Subject to subsection 2, a ward of a children's aid society who has been promoted or transferred to a secondary school shall be admitted, without the payment of a fee, to a secondary school by the board of the secondary school district that was supported by the assessment of the residence in which he resided with his parent or guardian in the year in which he became a ward or, where no secondary school is maintained in the district, to a secondary school pursuant to an agreement under subsection 2 of section 6. Admission of ward of children's aid society

(2) A ward of a children's aid society who has been promoted or transferred to a secondary school and who has been placed for adoption on a probationary basis shall be admitted, without the Where ward placed for adoption

payment of a fee, to a secondary school by the board of the secondary school district that is supported by the assessment of the residence in which he resides with his adoptive parent or, where no secondary school is maintained in the district, to a secondary school pursuant to an agreement under subsection 2 of section 6, upon receipt from the children's aid society of a certificate that he has been so placed for adoption. 1965, c. 119, s. 16, *part*.

Where fee payable

(3) Where a child who has been promoted or transferred to a secondary school and who is in the custody of a corporation, society or person resides in a secondary school district and is not qualified for admission to a secondary school in that district under any other provision of this Act or pursuant to an agreement under subsection 2 of section 6 and the secondary school inspector certifies that there is sufficient accommodation in a secondary school in that secondary school district or pursuant to an agreement under subsection 2 of section 6 for the current school year, the board of the district, or the board of the secondary school district with which an agreement has been made under subsection 2 of section 6, shall admit the child to a secondary school upon the prepayment monthly by the corporation, society or person of a fee as provided in section 72 of *The Schools Administration Act*. 1965, c. 119, s. 16, *part*; 1966, c. 141, s. 9.

R.S.O. 1970, c. 424

Admission of a child whose mother is the sole supporter, etc.

(4) A child who has completed the elementary school course and whose mother,

(*a*) resides in Ontario;

(*b*) is the sole support of the child;

(*c*) is not assessed as a supporter of a secondary school; and

(*d*) boards her child in a residence that is assessed to the support of a secondary school and that is not a children's boarding home as defined in *The Children's Boarding Homes Act*,

R.S.O. 1970, c. 65

shall be admitted to a secondary school by the board of the secondary school district in which he resides without the payment of a fee. R.S.O. 1960, c. 362, s. 71 (3).

Admission of resident pupil from other district

65.—(1) A resident pupil of a secondary school district who applies for admission to a secondary school situated in another secondary school district shall furnish the principal of the school to which admission is sought with a statement signed by the pupil's parent or guardian stating,

(*a*) the name of the secondary school district in respect of which he is a resident pupil;

(*b*) whether or not the pupil or his parent or guardian is assessed in the secondary school district in which the

school is situated, and if so assessed the amount of such assessment; and

(*c*) the authority, under this Act, under which the pupil claims to have a right to attend the school.

Notice of admission

(2) The principal of the school shall forward the statement to the secretary of the board that operates the school and, if the pupil is admitted, the secretary of the board shall forthwith notify the secretary of the board of the district of which the pupil is a resident pupil of the fact of the admission and of the information included in the statement. 1964, c. 106, s. 18.

66.—(1) Where,

Disagreements as to cost of education or fees

(*a*) the board of a secondary school district and the board of another secondary school district are unable to agree upon the fees to be paid under subsection 2 of section 63; or

(*b*) the council of a municipality and the board of a secondary school district are unable to agree upon the fees to be paid under subsection 3 of section 63, the matter shall be referred to the county judge who shall determine the matter. 1964, c. 106, s. 19 (1).

Reference and directions

(2) Either party may refer the matter to the judge and he shall give such directions as to the conduct, proceedings and hearing of the reference as he considers proper. R.S.O. 1960, c. 362, s. 73 (2).

Filing of documents, etc.

(3) The parties shall file with the judge such financial statements and balance sheets of the affairs of the board providing the instruction, such copies, extracts or information taken from the school registers as to enrolment and attendance of all pupils and of the pupils in respect of whom the cost of education or fees are payable and as to the names and addresses of such pupils and their parents or guardians, and such other statements, accounts, records, books and documents as may appear to the judge to be requisite in order fully and finally to ascertain all matters pertinent to the determination of the fees to be paid by the board or the fees to be paid by the municipality, as the case may be. R.S.O. 1960, c. 362, s. 73 (3); 1964, c. 106, s. 19 (2).

Costs of reference

(4) The costs of the reference to the judge are in his discretion and the amount thereof shall be fixed by him and he may order to and by whom and in what manner the costs shall be paid. R.S.O. 1960, c. 362, s. 73 (4).

Local municipality grants

67. The council of any municipality which, or any part of which, is included in a secondary school district, in addition to any sum that it is required to raise by this Act, may make grants as it considers expedient for the maintenance or permanent

improvements of the secondary school or schools in the district, or any of them. R.S.O. 1960, c. 362, s. 74.

Establishment of scholarships, etc.

68.—(1) Any person may, with the approval of the secondary school board concerned, establish scholarships, bursaries or prizes.

Idem

(2) A secondary school board may award bursaries or prizes to its pupils under such terms and conditions as the board may prescribe. R.S.O. 1960, c. 362, s. 79, *amended*.

PART VII

SCHOOLS FOR TRAINABLE RETARDED CHILDREN

Interpretation

69.—(1) In this Part,

(*a*) "authority" means a Retarded Children's Education Authority;

(*b*) "committee" means an advisory committee on schools for trainable retarded children established under this Part;

(*c*) "divisional board" means a divisional board of education and includes The Metropolitan Toronto School Board;

(*d*) "local association" means a parents' group that is affiliated with the Ontario Association for the Mentally Retarded;

(*e*) "school division" includes the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*; R.S.O. 1970, c. 295

(*f*) "trainable retarded child" means a child whose intellectual and physical functioning is below the level at which he could profit from attendance in a special education class for educable retarded children.

Metropolitan Toronto School Board

(2) For the purposes of this Part, The Metropolitan Toronto School Board shall be deemed to be organized as a divisional board on the 1st day of January, 1969. 1968, c. 122, s. 9, *part*.

Divisional boards to operate schools for trainable retarded children

70.—(1) Each school for trainable retarded children operated by an authority in a school division, except a defined city, shall cease to be operated by the authority on the 1st day of January, 1969, and thereafter shall be operated by the divisional board of the school division.

Idem

(2) Each school for trainable retarded children operated by an authority in a school division of a defined city or by The Ottawa Collegiate Institute Board under subsection 3 shall cease to be

operated by the authority or by such Board upon the organization of the divisional board of the school division, and thereafter shall be operated by the divisional board.

Operation in 1969 of Ottawa Retarded Children's Education Authority

(3) The schools operated by The Ottawa Retarded Children's Education Authority shall cease to be operated by such Authority on the 1st day of January, 1969, and for the year 1969 and until The Ottawa Board of Education is organized shall be operated by The Ottawa Collegiate Institute Board, which during such period shall be deemed to be a divisional board for the purposes of this Part, and The Ottawa Retarded Children's Education Authority is dissolved on that date, and section 71 applies *mutatis mutandis*. 1968, c. 122, s. 9, *part*.

Assets, liabilities, etc.

71.—(1) Upon the organization of a divisional board in a school division of a defined city and in respect of divisional boards of all other school divisions on the 1st day of January, 1969,

(*a*) all authorities that have jurisdiction wholly or partly in the school division are dissolved;

(*b*) all personal property vested in an authority in respect of a school for trainable retarded children that is located in the school division is vested in the divisional board;

(*c*) all real property located in the school division now vested in a local association for the use of an authority is vested in the divisional board;

(*d*) all debts, contracts, agreements, rights and liabilities of an authority or a local association in respect of a school for trainable retarded children that is located in the school division become debts, contracts, agreements, rights and liabilities of the divisional board.

No compensation payable

(2) No compensation shall be payable by the divisional board to any local association in respect of any property vested in the divisional board under subsection 1.

Dispute

(3) Where a dispute arises with respect to any matter under subsection 1, the local association involved and the divisional board shall each appoint an arbitrator, and these arbitrators shall appoint a third arbitrator who shall be the chairman, and the arbitrators shall resolve the dispute, and the decision of a majority of the arbitrators is final. 1968, c. 122, s. 9, *part*.

Trustees

72. All members of a divisional board are trustees for the purposes of schools for trainable retarded children. 1968, c. 122, s. 9, *part*.

Advisory committee established

73.—(1) A divisional board may establish an advisory committee on schools for trainable retarded children and every divisional board of a school division that operates one or more

schools for trainable retarded children or that is requested to establish such a committee by a local association representing parents of trainable retarded children resident in the school division shall establish an advisory committee on schools for trainable retarded children.

Composition

(2) The committee shall consist of six members, of which,

(*a*) three members shall be appointed by the divisional board from among its members; and

(*b*) three members shall be appointed by the local association, and where there is more than one local association, three members shall be appointed at a joint meeting of the associations concerned.

Qualifications of members

(3) The members of the committee appointed by the local association or associations shall have the qualifications required for the members of the divisional board.

Term of office

(4) The members of the committee shall hold office until the expiry of the term for which the members of the divisional board were elected.

Vacancies

(5) Every vacancy on a committee occasioned by death, removal or other cause shall be filled by appointment by the divisional board or the local association or associations, as the case may be, of some qualified person, and every person so appointed shall hold office for the unexpired portion of the term of the member whose office has become vacant.

Honorarium

(6) The divisional board may pay to each member of the committee who is not a member of the divisional board an honorarium not exceeding $10 for each month that he is a member of the committee. 1968, c. 122, s. 9, *part*.

Quorum

74.—(1) A majority of the members of the committee is a quorum, and a vote of a majority of the members present at a meeting is necessary to bind the committee.

Chairman

(2) The members of the committee shall, at their first meeting, elect one of themselves as chairman who shall preside at all meetings and, if at any meeting the chairman is not present, the members present may elect a chairman for that meeting.

Chairman voting

(3) On every question, the chairman may vote with the other members of the committee, and any question on which there is an equality of votes shall be deemed to be negatived.

Personnel and services available to committee

(4) The divisional board shall make available to the committee such personnel and services as the divisional board considers necessary for the proper functioning of the committee. 1968, c. 122, s. 9, *part*.

Powers of committee

75.—(1) The committee may make recommendations to the divisional board with respect to matters affecting the establishment and operation of schools for trainable retarded children in the school division.

Right of committee to be heard

(2) Before making a decision on a recommendation of the committee, the divisional board shall provide an opportunity for the committee to be heard before the board and before any committee thereof to which the recommendation is referred. 1968, c. 122, s. 9, *part*.

Cost of operation

76. The cost of operation of schools for trainable retarded children shall be included in the estimates of the divisional board for secondary school purposes and apportioned in the same manner as the cost of operation of secondary schools. 1968, c. 122, s. 9, *part*.

Right of child to attend school

77.—(1) Subject to subsection 6, a trainable retarded child whose parent or guardian resides in a school division in which a school for trainable retarded children is operated by the divisional board has the right to attend the school.

Admission of other children

(2) Subject to subsection 6, a divisional board may admit to a school for trainable retarded children operated by the board a child who does not have the right to attend such school under subsection 1.

Child whose mother is sole support, etc.

(3) A trainable retarded child whose mother,

(*a*) resides in Ontario;

(*b*) is the sole support of the child;

(*c*) is not assessed as a supporter of a public or separate school; and

(*d*) boards her child in a residence in a school division, other than a children's boarding home as defined in *The Children's Boarding Homes Act*, R.S.O. 1970, c. 65

shall be deemed to reside with his parent or guardian in such school division.

Ward of children's aid society

(4) Subject to subsection 5, a trainable retarded child who is a ward of a children's aid society shall be deemed to be resident with his parent or guardian in the school division in which he resided with his parent or guardian in the year in which he became a ward.

Child placed for adoption

(5) Where a children's aid society certifies that a child who is a ward of such society has been placed for adoption on a probationary basis, the child shall be deemed to be resident with his parent or guardian in the school division in which the child resides with his adoptive parent.

Admission or dismissal on recommendation of admissions board

(6) A child may be admitted to or dismissed from a school for trainable retarded children operated by a divisional board only upon the recommendation of an admissions board consisting of,

(*a*) the principal of the school;

(*b*) a legally qualified psychiatrist or other legally qualified medical practitioner appointed by the board;

(*c*) a supervisory officer designated by the divisional board which operates the school or, in a provincial superintendency, a provincial area superintendent designated by the Minister; and

(*d*) a supervisory officer designated by the separate school board having jurisdiction in the municipality in which the school is located, or in a provincial separate school superintendency, an area superintendent designated by the Minister.

Chairman of admissions board

(7) The principal of the school for trainable retarded children shall be the chairman of the admissions board. 1968, c. 122, s. 9, *part*.

Fees for non-resident pupils

78.—(1) Where a divisional board provides instruction in a school for trainable retarded children for a pupil whose parent or guardian does not reside in the school division, the board of the school division, secondary school district, school section or separate school zone in which his parent or guardian resides, shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with section 72 of *The Schools Administration Act*. 1968, c. 122, s. 9, *part*; 1968-69, c. 115, s. 45 (1).

R.S.O. 1970, c. 424

Fees where residence in school section and separate school zone

(2) Where a divisional board provides instruction in a school for trainable retarded children for a pupil whose parent or guardian does not reside in a school division, but does reside in a school section and in a separate school zone, the board of the school section or separate school zone of which the parent or guardian is a supporter shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with section 72 of *The Schools Administration Act*. 1968, c. 122, s. 9, *part*; 1968-69, c. 115, s. 45 (2).

Admission of child resident on tax-exempt lands

(3) Where a child is admitted to a school for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a rural school section for which a board has been appointed under subsection 1 of section 12 of *The Public Schools Act* or that have been designated a secondary school district for which a board has been appointed under subsection 1 of section 4, the board shall pay to the divisional

R.S.O. 1970, cc. 385, 424

board a tuition fee in accordance with section 72 of *The Schools Administration Act*. 1968, c. 122, s. 9, *part*; 1968-69, c. 115, s. 45 (3).

Boarding of pupils where daily transportation impracticable

79.—(1) Where a pupil resides in a school division with his parent or guardian in a residence from which daily transportation to a school for trainable retarded children that he has a right to attend is impracticable due to distance or terrain as certified by the superintendent of education of the school division in which the pupil resides, the board of the school division in which his parent or guardian resides may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount not exceeding that prescribed by the regulations for each day of attendance as certified by the principal of the school for trainable retarded children that the pupil attends.

Idem

(2) Where a pupil resides in a school section or in a separate school zone, but not in a school division, with his parent or guardian in a residence from which daily transportation to the school for trainable retarded children that he attends is impracticable due to distance or terrain as certified by the supervisory officer who has jurisdiction in the school section or separate school zone, the board of the school section or of the separate school zone of which his parent or guardian is a supporter may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount not exceeding that prescribed by the regulations for each day of attendance as certified by the principal of the school for trainable retarded children that the pupil attends.

Idem

(3) Where a pupil resides in a territorial district, but not in a school division, school section or separate school zone, with his parent or guardian in a residence from which daily transportation to the school for trainable retarded children that he attends is impracticable due to distance or terrain as certified by a supervisory officer of the divisional board of the school that he attends, the divisional board may reimburse the parent or guardian at the end of each month for the cost of providing for such pupil, board, lodging, and transportation once a week from his residence to school and return, in an amount not exceeding that prescribed by the regulations for each day of attendance as certified by the principal of the school for trainable retarded children that the pupil attends. 1968, c. 122, s. 9, *part*.

CHAPTER 426

The Securities Act

1.—(1) In this Act, Interpretation

1. "adviser" means a person or company engaging in or holding itself out as engaging in the business of advising others as to the advisability of investing in or buying or selling securities; 1968-69, c. 116, s. 1 (1), *part.*

2. "associate", where used to indicate a relationship with any person or company, means,
   i. any company of which such person or company beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the company for the time being outstanding,
   ii. any trust or estate in which such person or company has a substantial beneficial interest or as to which such person or company serves as trustee or in a similar capacity, or
   iii. any relative or spouse of such person or any relative of such spouse who, in any such case, has the same home as such person; 1966, c. 142, s. 1 (1), par. 1; 1968-69, c. 116, s. 1 (1), *part.*

3. "Commission" means the Ontario Securities Commission;

4. "company" means any incorporated corporation, incorporated association, incorporated syndicate or other incorporated organization; 1966, c. 142, s. 1 (1), pars. 4, 5.

5. "dealer" means a person or company who trades in securities in the capacity of principal or agent; 1968-69, c. 116, s. 1 (3).

6. "Director" means the Director or any Deputy Director of the Commission;

7. "equity share" means any share of any class of shares of a company carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;

8. "form of proxy" means a written or printed form that,

upon completion and execution by or on behalf of a shareholder, becomes a proxy;

9. "individual" means a natural person, but does not include a trustee, partnership, unincorporated association, unincorporated organization, unincorporated syndicate, executor, administrator or other legal personal representative; 1966, c. 142, s. 1 (1), pars. 6-9.

10. "Minister" means the Minister of Financial and Commercial Affairs or such other member of the Executive Council to whom the administration of this Act may be assigned;

11. "officer" means the chairman or any vice-chairman of the board of directors, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer or general manager of a company, or any other person designated an officer of a company by by-law or similar authority; 1966, c. 142, s. 1 (1), pars. 12, 13.

12. "person" means an individual, partnership, unincorporated association, unincorporated organization, unincorporated syndicate, trustee, executor, administrator or other legal personal representative;

13. "primary distribution to the public", used in relation to trading in securities, means,

    i. trades that are made for the purpose of distributing to the public securities issued by a company and not previously distributed, or

    ii. trades in previously issued securities for the purpose of distributing such securities to the public where the securities form all or a part of or are derived from the holdings of any person, company or any combination of persons or companies holding a sufficient number of any of the securities of a company to materially affect the control of such company,

    whether such trades are made directly to the public or indirectly to the public through an underwriter or otherwise, and includes any transaction or series of transactions involving a purchase and sale or a repurchase and resale in the course of or incidental to such distribution;

14. "private company" means a company in whose instrument of incorporation,

    i. the right to transfer its shares is restricted,

    ii. the number of its shareholders, exclusive of persons who are in its employment and exclusive of persons

who, having been formerly in the employment of the company, were, while in that employment, and have continued after the termination of that employment to be, shareholders of the company, is limited to not more than fifty, two or more persons who are the joint registered owners of one or more shares being counted as one shareholder, and

iii. any invitation to the public to subscribe for its securities is prohibited; 1966, c. 142, s. 1 (1), pars. 15-17.

15. "promoter" means,

i. a person or company that, acting alone or in conjunction with one or more other persons, companies or a combination thereof, directly or indirectly takes the initiative in founding, organizing or substantially reorganizing the business or enterprise of a person or company, or

ii. a person or company that, in connection with the founding, organizing or substantial reorganizing of the business or enterprise of a person or company, directly or indirectly receives in consideration of services or property, or both services and property, 10 per cent or more of any class of securities of the person or company or 10 per cent or more of the proceeds from the sale of any class of securities of a particular issue; except that a person or company who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of this definition if such person or company does not otherwise take part in founding, organizing or substantially reorganizing the business or enterprise; 1966, c. 142, s. 1 (1), par. 18, *amended*.

16. "proxy" means a completed and executed form of proxy by means of which a shareholder has appointed a person as his nominee to attend and act for him and on his behalf at a meeting of shareholders;

17. "public company" means a company that is not a private company;

18. "register" means register under this Act, and "registered" has a corresponding meaning;

19. "registrant" means a person or company registered or required to be registered under this Act; 1966, c. 142, s. 1 (1), pars. 19-22.

20. "regulations" means the regulations made under this Act; 1966, c. 142, s. 1 (1), par. 24.

21. "salesman" means an individual who is employed by a dealer for the purpose of making trades in securities on behalf of such dealer; 1968-69, c. 116, s. 1 (5).

22. "security" includes,

i. any document, instrument or writing commonly known as a security,

ii. any document constituting evidence of title to or interest in the capital, assets, property, profits, earinings or royalties of any person or company,

iii. any document constituting evidence of an interest in an association of legatees or heirs,

iv. any document constituting evidence of an option, subscription or other interest in or to a security,

v. any bond, debenture, share, stock, note, unit, unit certificate, participation certificate, certificate of share or interest, pre-organization certificate or subscription,

vi. any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company,

vii. any certificate of share or interest in a trust, estate or association,

viii. any profit-sharing agreement or certificate,

ix. any certificate of interest in an oil, natural gas or mining lease, claim or royalty voting trust certificate,

x. any oil or natural gas royalties or leases or fractional or other interest therein,

xi. any collateral trust certificate,

xii. any income or annuity contract not issued by an insurance company or an issuer within the meaning of *The Investment Contracts Act*,

R.S.O. 1970, c. 226

xiii. any investment contract, other than an investment contract within the meaning of *The Investment Contracts Act*, and

xiv. any document constituting evidence of an interest in a scholarship or educational plan or trust,

whether any of the foregoing relate to a person, proposed company or company, as the case may be; 1966, c. 142, s. 1 (1), par. 27; 1968, c. 123, s. 1 (2).

23. "senior officer" means,

i. the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a

company or any other individual who performs functions for the company similar to those normally performed by an individual occupying any such office, and

ii. each of the five highest paid employees of a company, including any individual referred to in subparagraph i; 1966, c. 142, s. 1 (1), par. 29.

24. "trade" or "trading" includes,

i. any sale or disposition of or other dealing in or any solicitation in respect of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise, or any attempt to do one of the foregoing,

ii. any participation as a floor trader in any transaction in a security upon the floor of any stock exchange,

iii. any receipt by a person or company registered for trading in securities under this Act of an order to buy or sell a security, and

iv. any act, advertisement, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;

25. "underwriter" means a person or company who, as principal, purchases securities from a person or company with a view to, or who as agent for a person or company offers for sale or sells securities in connection with, a primary distribution to the public of such securities, and includes a person or company who has a direct or indirect participation in any such distribution, but does not include a person or company whose interest in the transaction is limited to receiving the usual and customary distributors' or sellers' commission payable by an underwriter. 1966, c. 142, s. 1 (1), pars. 31, 32.

Affiliated companies

(2) A company shall be deemed to be an affiliate of another company if one of them is the subsidiary of the other or if both are subsidiaries of the same company or if each of them is controlled by the same person or company.

Controlled companies

(3) A company shall be deemed to be controlled by another person or company or by two or more companies if,

(*a*) equity shares of the first-mentioned company carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or company or by or for the benefit of such other companies; and

(*b*) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned company.

Subsidiary companies

(4) A company shall be deemed to be a subsidiary of another company if,

(*a*) it is controlled by,

(i) that other, or

(ii) that other and one or more companies each of which is controlled by that other, or

(iii) two or more companies each of which is controlled by that other; or

(*b*) it is a subsidiary of a company that is that other's subsidiary.

Holding companies

(5) A company shall be deemed to be another's holding company or parent company if that other is its subsidiary.

Beneficial ownership of securities

(6) A person shall be deemed to own beneficially securities beneficially owned by a company controlled by him or by an affiliate of such company.

Idem

(7) A company shall be deemed to own beneficially securities beneficially owned by its affiliates. 1966, c. 142, s. 1 (2-7).

PART I

THE COMMISSION

Commission

2.—(1) The Commission, which is responsible for the administration of this Act, shall be composed of a Chairman and not more than five other members, one of whom shall be designated as Vice-Chairman. 1966, c. 142, s. 2 (1); 1968, c. 123, s. 2.

Appointment

(2) The members of the Commission shall be appointed by the Lieutenant Governor in Council.

Quorum

(3) Two members of the Commission constitute a quorum. 1966, c. 142, s. 2 (2, 3).

Chairman and members

3.—(1) The Chairman, who shall be the chief executive officer of the Commission, shall devote his full time to the work of the Commission, and the other members shall devote time as may be necessary for the due performance of their duties as members of the Commission. 1966, c. 142, s. 3.

Delegation of Commission powers and duties

(2) The Chairman, Vice-Chairman or any member of the Commission may exercise the powers and shall perform such duties vested in or imposed upon the Commission by this Act or the regulations as are assigned to him by the Commission, except those referred to in sections 21 to 28.

(3) Every direction, decision, order or ruling made pursuant to an assignment under subsection 2 is subject to review by the Commission under section 28 in the same manner as if it had been made by the Director, and the person who made the direction, decision, order or ruling shall not sit on the hearing and review thereof by the Commission. 1968, c. 123, s. 3. Review

4. The Director or any Deputy Director may exercise the powers and shall perform the duties vested in or imposed upon him by this Act, and he may exercise the powers and shall perform the duties vested in or imposed upon the Commission by this Act or the regulations that are assigned to him by the Commission except those referred to in sections 21 to 28, and, subject to the direction of the Commission, he shall be the chief administrative officer of the Commission. 1966, c. 142, s. 4. Functions of Director

5. For the purposes of a hearing required or permitted under this Act to be held before the Commission or the Director, the following rules apply: Rules as to hearings

1. In addition to any other person or company to whom notice is required to be given, notice in writing of the time, place and purpose of the hearing shall be given to any person or company that, in the opinion of the Commission or the Director, is primarily affected by such hearing, and any such notice is sufficient if sent to such person or company by prepaid mail at the latest address of such person or company appearing on the records of the Commission or, if not so appearing, to such address as is directed by the Commission or the Director.

2. For the purposes of the hearing any of the persons convening the hearing or before whom the hearing is held has the same power to summons and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend to answer questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court.

3. At the hearing, the person presiding shall receive such evidence as is submitted by a person or company to whom notice has been given or by any other person or company that is relevant to the hearing, but the person presiding is not bound by the legal or technical rules of evidence.

4. At the hearing or hearing and review by the Commission, all oral evidence received shall be taken down in writing and together with such documentary evidence and things as are received in evidence by the Commission form the record.

5. Where the direction, decision, order or ruling made after a hearing adversely affects the right of a person or company to trade in securities, the person presiding at such hearing shall, at the request of such person or company, issue written reasons for the direction, decision, order or ruling.

6. Notice of every direction, decision, order or ruling, together with a copy of the written reasons therefor, if any, shall be given upon the issuance thereof to a person or company to whom notice of the hearing was given and to a person or company that, in the opinion of the person who presided at the hearing, is primarily affected thereby, and any such notice is sufficient if sent to such person or company by prepaid mail at the latest address of such person or company appearing on the records of the Commission or, if not so appearing, to such address as is directed by the Commission or the Director.

7. A person or company attending or submitting evidence at a hearing pursuant to item 1 may be represented by counsel. 1966, c. 142, s. 5; 1968, c. 123, s. 4.

PART II

REGISTRATION

Persons and companies required to register for trading in securities

6.—(1) No person or company shall,

(*a*) trade in a security unless such person or company is registered as a dealer, or as a salesman of a registered dealer;

(*b*) act as a partner or officer of or on behalf of a person or company in connection with a trade in a security by such person or company unless such person or company is registered for trading in securities;

(*c*) act as a salesman of or on behalf of a person or company in connection with a trade in a security by such person or company unless he is registered as a salesman of such person or company and such person or company is registered as a dealer;

(*d*) act as an underwriter unless such person or company is registered as an underwriter, or is a bank to which the *Bank Act* (Canada) applies; or

1966-67, c. 87 (Can.)

(*e*) act as an adviser unless such person or company is registered as an adviser,

and such registration has been made in accordance with this Act and the regulations and the person or company has received written notice of the registration from the Director and, where the registration is subject to terms and conditions, the person or company complies with such terms and conditions.

Persons who may act as registrant

(2) No person shall act as a dealer, adviser or underwriter for or on behalf of a person or company that is registered as a dealer, adviser or underwriter except such partners or officers thereof as are designated by the Director. 1968-69, c. 116, s. 2.

New partners or officers must be approved

(3) No individual who becomes a partner or officer of a person or company after such person or company has been registered shall trade in securities until such person or company has received from the Director written permission for such partner or officer so to trade. 1966, c. 142, s. 6 (3); 1968, c. 123, s. 5 (2).

Termination of employment of salesman

(4) The termination of the employment of a salesman with a person or company registered for trading in securities operates as a withdrawal of the registration of the salesman until notice in writing has been received by the Director from another person or company registered for trading in securities of the employment of the salesman by such other person or company and the employment has been approved by the Director. 1966, c. 142, s. 6 (4); 1968, c. 123, s. 5 (3).

Non-trading employees

(5) The Director may designate as "non-trading" any employee or class of employees of a person or company registered for trading in securities who do not usually sell securities to the public, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or member of any such class of employees should be required to apply for registration as a salesman. 1966, c. 142, s. 6 (5).

Registration

7.—(1) The Director shall grant registration or renewal of registration to an applicant where in the opinion of the Director the applicant is suitable for registration and the proposed registration is not objectionable.

Refusal of registration

(2) The Director shall not refuse to grant or refuse to renew registration without giving the applicant an opportunity to be heard.

Restrictions on registration

(3) The Director may in his discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in certain securities or a certain class of securities. 1966, c. 142, s. 7.

Suspension, cancellation

8.—(1) The Commission, after giving the registrant an opportunity to be heard, shall suspend or cancel any registration where in its opinion such action is in the public interest.

Interim suspension

(2) Where the delay necessary for a hearing under subsection 1 would, in the opinion of the Commission, be prejudicial to the public interest, the Commission may suspend the registration without giving the registrant an opportunity to be heard, in which case it shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within fifteen days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 28. 1968, c. 123, s. 6.

Further application for registration

9. A further application for registration may be made upon new or other material or where it is clear that material circumstances have changed. 1966, c. 142, s. 9.

Application to be upon forms with proper fees

10. An application for registration shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. 1966, c. 142, s. 10.

Address for service

11. Every applicant shall state in the application an address for service in Ontario and, except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. 1966, c. 142, s. 11.

Further information

12. The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, officer, director or employee of the applicant or of the registrant to submit to examination under oath by a person designated by the Director. 1966, c. 142, s. 12.

Appointment of experts

13.—(1) The Commission may appoint one or more experts to assist the Commission in such manner as it may consider expedient.

Submission of documents to experts

(2) The Commission may submit any agreement, prospectus, financial statement, report or other document to one or more experts appointed under subsection 1 for examination, and the Commission has the like power to summon and enforce the attendance or witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and subsections 3 and 4 of section 21 apply *mutatis mutandis*.

(3) An expert appointed under subsection 1 shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. 1966, c. 142, s. 13. Payment for services

14.—(1) The Director may refuse registration to a person if he has not been a resident of Canada for at least one year immediately prior to the date of application for registration and if he is not a resident of Ontario at the date of such application unless at the time of such application such person is registered in a capacity corresponding to that of a dealer, adviser, underwriter or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. 1966, c. 142, s. 14 (1); 1968-69, c. 116, s. 3 (1). Residence

(2) The Director may refuse registration to a company or partnership if every officer and director or every partner has not been a resident of Canada for at least one year immediately prior to the date of application for registration and if he is not a resident of Ontario at the date of such application unless at the time of such application he is registered in a capacity corresponding to that of a dealer, adviser, underwriter or salesman under the securities laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. 1966, c. 142, s. 14 (2); 1968-69, c. 116, s. 3 (2). Idem

(3) For the purposes of this section, a person shall not be deemed to cease to reside in Ontario by reason only of his absence from Ontario as a member of the Canadian Armed Forces. 1966, c. 142, s. 14 (3). Servicemen

15.—(1) Every registered dealer shall, within five days of the event, notify the Director in writing of, Where Director to be notified

(*a*) any change in address for service or any business address;

(*b*) any change in the officers, directors or shareholders of a company or partners of a partnership;

(*c*) the commencement and termination of employment of every salesman and, in the case of termination of employment, the reason therefor;

(*d*) the opening or closing of any branch office and, in the case of the opening of any branch office, the name and address of the person in charge thereof; and

(*e*) any change in the name or address of the person in charge of any branch office. 1966, c. 142, s. 15 (1); 1968, c. 123, s. 7 (1); 1968-69, c. 116, s. 4 (1).

Idem

(2) Every registered adviser and underwriter shall, within five days of the event, notify the Director in writing of,

(*a*) any change in address for service or any business address; and

(*b*) any change in the officers, directors or shareholders or a company or partners of a partnership. 1966, c. 142, s. 15 (3); 1968, c. 123, s. 7 (4); 1968-69, c. 116, s. 4 (3).

Idem

(3) Every registered salesman shall, within five days of the event, notify the Director in writing of,

(*a*) any change in his address for service or in his business address; and

(*b*) every commencement and termination of his employment by a registrant. 1966, c. 142, s. 15 (4); 1968, c. 123, s. 7 (5).

Exemption

(4) Notwithstanding subsections 1 and 2, the Director may grant an exemption, upon such terms and conditions as he sees fit, from the requirement to notify the Director of any changes in shareholders if the registrant is a public company. 1966, c. 142, s. 15 (6); 1968, c. 123, s. 7 (7).

Director to make deposits

16. The Director shall cause all cash, cheques, money orders and postal notes to be deposited with the Treasurer of Ontario for payment into the Consolidated Revenue Fund. 1966, c. 142, s. 16.

Refunds

17. Where an application for a registration is refused, a registration is cancelled or a receipt for a prospectus is not obtained, the Director may recommend to the Treasurer of Ontario that a refund of the fee or of such part thereof as he considers fair and reasonable be made, and the Treasurer may make such refund from the Consolidated Revenue Fund. 1966, c. 142, s. 17.

EXEMPTION FROM REGISTRATION

Exemptions from registration as adviser:

18. Registration as an adviser is not required to be obtained by,

banks, loan, trust and insurance companies 1966-67, c. 87 (Can.) R.S.C. 1952, c. 151 R.S.O. 1970, cc. 254, 224

(*a*) a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), or a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*;

lawyers, accountants, engineers and teachers

(*b*) a lawyer, accountant, engineer or teacher whose performance of such services is solely incidental to the practice of his profession;

(*c*) a person or company registered for trading in securities under this Act, or any partner, officer or employee thereof, whose performance of such services is solely incidental to the conduct of his or its business as such; persons or companies registered for trading in securities, etc.

(*d*) a publisher of any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an adviser only through such publication and has no interest either directly or indirectly in any of the securities upon which the advice is given and receives no commission or other consideration for giving the advice and who gives the advice as solely incidental to the conduct of his business as a publisher; or certain publishers

(*e*) such other persons or companies as are designated by the regulations. 1966, c. 142, s. 18; 1968-69, c. 116, s. 5. persons or companies designated by regulations

19.—(1) Subject to the regulations, registration is not required in respect of the following trades: Trades exempt from regulation

1. A trade in a security by an executor, administrator, guardian or committee or by an authorized trustee or assignee, an interim or official receiver or a custodian under the *Bankruptcy Act* (Canada), or by a receiver under *The Judicature Act* or by a liquidator under *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or at a judicial sale. R.S.C. 1952, cc. 14, 296 R.S.O. 1970, cc. 228, 89, 53

2. An isolated trade in a specific security by or on behalf of the owner, for the owner's account, where such trade is not made in the course of continued and successive transactions of a like nature, and is not made by a person or company whose usual business is trading in securities.

3. A trade where one of the parties is a bank to which the *Bank Act* (Canada) applies, or the Industrial Development Bank incorporated under the *Industrial Development Bank Act* (Canada), or a loan corporation or trust company registered under *The Loan and Trust Corporations Act*, or an insurance company licensed under *The Insurance Act*, or is an officer or employee, in the performance of his duties as such, of Her Majesty in right of Canada, or of any province or territory of Canada, or of any municipal corporation or public board or commission in Canada, or any other trade where the purchaser or proposed purchaser is a person, other than an individual, or a company recognized by the Commission as an exempt purchaser. 1966-67, c. 87 (Can.) R.S.C. 1952, c. 151 R.S.O. 1970, cc. 254, 224

4. A trade by or for the account of a pledgee, mortgagee or other encumbrancer for the purpose of liquidating a

bona fide debt by selling or offering for sale a security pledged, mortgaged or otherwise encumbered in good faith as security for the debt.

5. A trade in a security that may occasionally be transacted by employees of a person or company registered for trading in securities under this Act where the employees do not usually sell securities to the public and have been designated by the Director as "non-trading" employees, either individually or as a class.

6. A trade between a person or company and an underwriter acting as purchaser, and trades between or among underwriters.

7. A trade in a security by a person or company acting solely through an agent who is a person or company registered for trading in securities under this Act.

8. i. A trade in a security of its own issue that is distributed or issued by a company to holders of its securities as a stock dividend or other distribution out of earnings or surplus,

ii. A trade in a security whether of its own issue or not that is distributed or issued by a company to holders of its securities as incidental to a *bona fide* reorganization or winding up of such company or distribution of its assets for the purpose of winding up its affairs, or

iii. The sale by a company of its securities pursuant to the exercise of a right, transferable or otherwise, granted by the company to holders of its securities to purchase additional securities of its own issue if the company has given the Commission written notice stating the date, amount, nature and conditions of the proposed sale, including the approximate net proceeds to be derived by the company on the basis of such additional securities being fully taken up and paid for, and either,

(*a*) the Commission has not informed the company in writing within ten days of the giving of such notice that it objects to the sale; or

(*b*) information satisfactory to the Commission relating to the securities has been delivered to and accepted by the Commission,

if, with respect to any trade referred to in subparagraph i or ii, no commission or other remuneration is paid or given to others in respect of such distribution or issuance except for ministerial or professional services or for services performed by a person or company registered for trading in securities under this Act.

9. A trade in a security of a company that is exchanged by or for the account of such company with another company or the holders of the securities of such other company in connection with a consolidation, amalgamation, merger or reorganization of either company or in connection with a take-over bid as defined in Part IX.

10. A trade by a company of securities of its own issue with its employees or the employees of an affiliate who are not induced to trade by expectation of employment or continued employment.

11. A trade in respect of which the regulations provide that registration is not required.

Trades in securities exempt from registration

(2) Subject to the regulations, registration is not required to trade in the following securities:

1. Bonds, debentures or other evidences of indebtedness,
   (*a*) of or guaranteed by the government of Canada or any province of Canada or by the government of the United Kingdom or any foreign country or any political division thereof;
   (*b*) of any municipal corporation in Canada, including debentures issued for public, separate, high or vocational school purposes, or guaranteed by any municipal corporation in Canada, or secured by or payable out of rates or taxes levied under the law of any province of Canada on property in such province and collectable by or through the municipality in which such property is situated;
   (*c*) of or guaranteed by a bank to which the *Bank Act* (Canada) applies, a trust company or loan corporation registered under *The Loan and Trust Corporations Act* or an insurance company licensed under *The Insurance Act*; or
   (*d*) of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreements Act* (Canada), if the bonds, debentures or evidences of indebtedness are payable in the currency of Canada or the United States of America.

1966-67, c. 87 (Can.)

R.S.O. 1970, cc. 254, 224

R.S.C. 1952, c. 19

2. Certificates or receipts of a trust company registered under *The Loan and Trust Corporations Act* issued for moneys received for guaranteed investment.

3. Negotiable promissory notes or commercial paper maturing not more than one year from the date of issue, if

each such note or commercial paper traded to an individual has a denomination or principal amount of not less than $50,000.

4. Mortgages or other encumbrances upon real or personal property, other than mortgages or other encumbrances contained in or secured by a bond, debenture or similar obligation or in a trust deed or other instrument to secure bonds or debentures or similar obligations, if such mortgages or other encumbrances are not offered for sale to the public except by a person or company registered under *The Real Estate and Business Brokers Act*.

R.S.O. 1970, c. 401

5. Securities evidencing indebtedness due under any conditional sales contract or other title retention contract providing for the acquisition of personal property if such securities are not offered for sale to the public.

6. Securities issued by a person or company organized exclusively for educational, benevolent, fraternal, charitable, religious or recreational purposes and not for profit, where no part of the net earnings of such person or company enure to the benefit of any security holder.

7. Securities issued by corporations operated on a co-operative basis as defined by Part V of *The Corporations Act*.

R.S.O. 1970, c. 89

8. Shares of a credit union within the meaning of *The Credit Unions Act*.

R.S.O. 1970, c. 96

9. Securities of a private company issued by the private company if the securities are not offered for sale to the public.

10. Securities issued and sold by a prospector for the purpose of financing a prospecting expedition.

11. Securities issued by a prospecting syndicate where such securities are sold by the prospector or one of the prospectors who staked the claims that belong to or are the subject of a declaration of trust in favour of the prospecting syndicate within the meaning of Part VI, where a prospecting syndicate agreement relating to the prospecting syndicate has been filed and a receipt therefor issued by the Registrar, and where the prospector delivers a copy of the prospecting syndicate agreement to the person or company purchasing the security before accepting payment therefor.

12. Securities of a prospecting syndicate within the meaning of Part VI, issued by the prospecting syndicate, where a prospecting syndicate agreement relating to the pros-

pecting syndicate has been filed and a receipt therefor issued by the Registrar if such securities are not offered for sale to the public and are sold to not more than fifty persons or companies.

13. Securities in respect of which the regulations provide that registration is not required. 1966, c. 142, s. 19 (1, 2), *amended*.

Private placement

(3) Subject to the regulations, registration is not required in respect of a trade where the purchaser is a person, other than an individual, or company who purchases for investment only and not with a view to resale or distribution, if the trade is in a security which has an aggregate acquisition cost to such purchaser of not less than $97,000.

Idem

(4) For the purpose of subsection 3, a direct solicitation of or negotiation with a person or company with a view to effecting a sale is not a trade within the meaning of paragraph 24 of subsection 1 of section 1.

Denial of exemptions

(5) Notwithstanding subsections 1, 2 and 3, the Commission may, where in its opinion such action is in the public interest,

(*a*) order that subsection 1 or 3 does not, with respect to such of the trades referred to in that subsection as are specified in the order, apply to the person or company named in the order;

(*b*) order that subsection 2 does not, with respect to such of the securities referred to in that subsection as are specified in the order, apply to the person or company named in the order.

Hearing

(6) No order shall be made under subsection 5 without a hearing, unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which expires fifteen days from the date of the making thereof.

Notice of temporary order

(7) Notice of a temporary order made under subsection 6 shall be given forthwith together with the notice of hearing required by paragraph 1 of section 5 to every person or company that in the opinion of the Commission is primarily affected thereby. 1966, c. 142, s. 19.

Exemption by Commission

20.—(1) The Commission may, where in its opinion such action is not prejudicial to the public interest, order, subject to such terms and conditions as it may impose, that sections 6 and 35 do not apply to any trade, security, person or company, as the case may be, named in the order.

Notice of order

(2) A notice of each order made under subsection 1 and a summary of the facts relating thereto shall be published by the

Commission as soon as practicable after such order is made, and such order shall be laid before the Assembly if it is in session. 1966, c. 142, s. 20.

PART III

INVESTIGATION AND ACTION BY COMMISSION

Order to investigate

21.—(1) Where upon a statement made under oath it appears probable to the Commission that any person or company has,

(*a*) contravened any of the provisions of this Act or the regulations; or

1953-54 c. 51 (Can.)

(*b*) committed an offence under the *Criminal Code* (Canada) in connection with a trade in securities,

the Commission may by order appoint any person to make such investigation as it considers expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation. 1966, c. 142, s. 21 (1).

Order to investigate

(2) The Commission may, by order, appoint any person to make such investigation as it considers expedient for the due administration of this Act or into any matter relating to trading in securities, and in such order shall determine and prescribe the scope of the investigation. 1968, c. 123, s. 8.

Scope of investigation

(3) For the purposes of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

(*a*) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person or company and any property, assets or things owned, acquired or alienated in whole or in part by such person or company or by any person or company acting on behalf of or as agent for such person or company; and

(*b*) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person or company and the relationship that may at any time exist or have existed between such person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or

holding of stock, interlocking directorates, common control, undue influence or control or any other relationship. 1966, c. 142, s. 21 (3).

Power to summon witnesses and require production

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court, and no provision of *The Evidence Act* exempts any bank or any officer or employee thereof from the operation of this section. 1966, c. 142, s. 21 (4), *amended*.

R.S.O. 1970, c. 151

Counsel

(5) A person giving evidence at an investigation under this section may be represented by counsel.

Seizure of property

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities or other property of the person or company whose affairs are being investigated.

Inspection of property

(7) Where any documents, records, securities or other property are seized under subsection 6, such documents, records, securities or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place.

Accountants, other experts

(8) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated.

Report of investigation

(9) Every person appointed under subsection 1, 2 or 8 shall report the result of his investigation or examination to the Commission. 1966, c. 142, s. 21 (5-9).

Report to Minister

22. Where upon the report of an investigation made under section 21 it appears to the Commission that any person or company may have,

(*a*) contravened any of the provisions of this Act or the regulations; or

(*b*) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to securities,

1953-54, c. 51 (Can.)

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript of

evidence and any material in the possession of the Commission relating thereto, to the Minister. 1966, c. 142, s. 22.

Investigation under order of Minister

23. Notwithstanding section 21, the Minister may by order appoint any person to make such investigation as the Minister considers expedient for the due administration of this Act or into any matter relating to trading in securities, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights and privileges as a person appointed under section 21. 1966, c. 142, s. 23; 1968, c. 123, s. 9, *amended*.

Evidence not to be disclosed

24. No person, without the consent of the Commission, shall disclose, except to his counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 21 or 23. 1966, c. 142, s. 24.

Reporting to Minister, publication of report

25. Where an investigation has been made under section 21, the Commission may, and, where an investigation has been made under section 23, the person making the investigation shall, report the result thereof, including the evidence, findings, comments and recommendations, to the Minister, and the Minister may cause the report to be published in whole or in part in such manner as he considers proper. 1966, c. 142, s. 25.

Order to hold or refrain from dealing with funds

26.—(1) The Commission may,

(*a*) where it is about to order an investigation under section 21 or during or after an investigation under section 21 or 23;

(*b*) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or

(*c*) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company, that in the opinion of the Commission, are connected with or arise out of any security or any trade therein or out of any business conducted by such person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause *a*, *b* or *c* to hold such funds or securities or direct the person or company referred to in clause *a*, *b* or *c* to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator

appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, provided that no such direction applies to funds or securities in a stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company the direction applies only to the offices, branches or agencies thereof named in the direction. R.S.C. 1952, cc. 14, 296 R.S.O. 1970, cc. 228, 89, 53

(2) Any person or company in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any funds or security or in the case of a claim being made thereto by any person or company not named in the direction, may apply to a judge of the Supreme Court who may direct the disposition of such funds or security and may make such order as to costs as seems just. Application for direction

(3) In any of the circumstances mentioned in clause *a*, *b* or *c* of subsection 1, the Commission may in writing or by telegram notify any registrar of deeds, master of titles or mining recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered or recorded against the lands or claims mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens* or a caution, and the Commission may in writing revoke or modify the notice. 1966, c. 142, s. 26. Notice to registrars of deeds, etc.

27.—(1) The Commission may, Application for appointment of receiver, receiver and manager or trustee

(*a*) where it is about to order an investigation under section 21 or during or after an investigation under section 21 or 23;

(*b*) where it is about to make or has made a direction, decision, order or ruling suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in securities; or

(*c*) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the Commission are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,

apply to a judge of the Supreme Court for the appointment of a receiver or a receiver and manager or a trustee of the property of such person or company.

Appointment

(2) Upon an application made under subsection 1, the judge may, where he is satisfied that the appointment of a receiver or a receiver and manager or a trustee of the property of any person or company is in the best interests of the creditors of such person or company or of persons or companies any of whose property is in the possession or under the control of such person or company, appoint a receiver or a receiver and manager or a trustee of the property of such person or company.

Ex parte application

(3) Upon an *ex parte* application made by the Commission under this section, the judge may make an order under subsection 2 appointing a receiver or a receiver and manager or a trustee for a period not exceeding eight days.

Powers of receiver, receiver and manager or trustee

(4) A receiver or a receiver and manager or a trustee of the property of any person or company appointed under this section shall be the receiver or the receiver and manager or the trustee of all the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver or the receiver and manager or the trustee shall have authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto.

Enforcement of order

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

Rules of practice to apply

(6) Upon an application made under this section, the rules of practice of the Supreme Court apply. 1966, c. 142, s. 27.

PART IV

APPEALS

Review by Commission

28.—(1) Any person or company primarily affected by a direction, decision, order or ruling of the Director may, by notice in writing sent by registered mail to the Director within thirty days after the mailing of the notice of the direction, decision, order or ruling, request and be entitled to a hearing and review thereof by the Commission. 1966, c. 142, s. 28 (1); 1968, c. 123, s. 10.

Power on review

(2) Upon a hearing and review, the Commission may by order confirm the direction, decision, order or ruling under review or make such other direction, decision, order or ruling as the Commission considers proper. 1966, c. 142, s. 28 (2).

Appeal

29.—(1) Any person or company primarily affected by a direction, decision, order or ruling of the Commission, other than a ruling under section 59, may appeal to the Court of Appeal. 1966, c. 142, s. 29 (1).

(2) Every appeal shall be by notice of motion sent by registered mail to the Director within thirty days after the mailing of the notice of the order, and the practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action, provided that the Rules Committee may vary or amend such practice and procedure or may prescribe the practice and procedure that shall be applicable to appeals taken under this Act. 1966, c. 142, s. 29 (2); 1968, c. 123, s. 11 (1). Form of appeal

(3) The Director shall certify to the Registrar of the Supreme Court, Certificate of Registrar

(*a*) the direction, decision, order or ruling that has been reviewed by the Commission;

(*b*) the order of the Commission, together with any statement of reasons therefor;

(*c*) the record of the review; and

(*d*) all written submissions to the Commission or other material that are relevant to the appeal. 1966, c. 142, s. 29 (3); 1968, c. 123, s. 11 (2).

(4) The Minister may appoint counsel to assist the Court of Appeal upon the hearing of any appeal under this section. Counsel

(5) Where an appeal is taken under this section, the Court of Appeal may by its order direct the Commission to make such direction, decision, order or ruling or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the Court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such direction, decision, order or ruling or do such act accordingly. Order of Court of Appeal

(6) Notwithstanding an order of the Court of Appeal, the Commission has power to make any further direction, decision, order or ruling upon new material or where there is a material change in the circumstances, and every such direction, decision, order or ruling is subject to this section. 1966, c. 142, s. 29 (4-6), *amended*. Commission may make further direction, etc.

PART V

AUDITS

30. Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall, Panel of auditors

(*a*) select a panel of auditors each of whom shall have practised as such in Ontario for not fewer than five years

and shall be known as a panel auditor or members' auditor; and

(*b*) employ an exchange auditor, district association auditor or association auditor, as the case may be, whose appointment is subject to the approval of the Commission, and the appointee shall be an auditor who has practised as such in Ontario for not fewer than ten years. 1966, c. 142, s. 30.

Audits by stock exchanges and associations

31.—(1) Every stock exchange in Ontario recognized by the Commission, the Ontario District of the Investment Dealers' Association of Canada and the Broker-Dealers' Association of Ontario shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under section 30, and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, district association auditor or association auditor, as the case may be.

Auditing by-laws, etc., to be satisfactory to Commission

(2) The by-laws, rules and regulations of every stock exchange in Ontario recognized by the Commission, the rules and regulations of the Ontario District of the Investment Dealers' Association of Canada and the regulations of the Broker-Dealers' Association of Ontario in respect of the practice and procedure of the examinations under subsection 1 and the actual conduct of the examinations shall be satisfactory to the Commission. 1966, c. 142, s. 31.

Annual financial statement, filing

32. Every registrant whose financial affairs are not subject to examination under section 31 shall keep such books and records as are necessary for the proper recording of his business transactions and financial affairs and shall file with the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to his financial position, certified by such registrant or an officer or partner of such registrant and reported upon by the auditors of such registrant, and such other information as the Commission may require in such form as it may prescribe. 1966, c. 142, s. 32.

Commission may make audits

33.—(1) Notwithstanding anything in sections 30, 31 and 32, the Commission or any person to whom as its representative it may in writing delegate such authority may at any time make an examination of the financial affairs of a registrant or of any person or company whose securities have been the subject of a filing with the Commission, and prepare a balance sheet as of the date of such examination and such other statements and reports as may be required by the Commission.

Access to books securities, etc.

(2) The Commission or any person making an examination under this section is entitled to free access to all books of account,

securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose financial affairs are being examined, and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. 1966, c. 142, s. 33. Fees

PART VI

PROSPECTING SYNDICATES

34.—(1) Upon the filing of a prospecting syndicate agreement and the issuance of a receipt therefor by the Director, the liability of the members of the syndicate or parties to the agreement is limited to the extent provided by the terms of the agreement, Agreements

(*a*) where the sole purpose of the syndicate is the financing of prospecting expeditions, preliminary mining development, or the acquisition of mining properties, or any combination thereof;

(*b*) where the agreement clearly sets out,

(i) the purpose of the syndicate,

(ii) the particulars of any transaction effected or in contemplation involving the issue of units for a consideration other than cash,

(iii) the maximum amount, not exceeding 25 per cent of the sale price, that may be charged or taken by a person or company as commission upon the sale of units in the syndicate,

(iv) the maximum number of units in the syndicate, not exceeding 33⅓ per cent of the total number of units of the syndicate, that may be issued in consideration of the transfer to the syndicate of mining properties,

(v) the location of the principal office of the syndicate and that the principal office shall at all times be maintained in Ontario and that the Director and the members of the syndicate shall be notified immediately of any change in the location of the principal office,

(vi) that a person or company holding mining properties for the syndicate shall execute a declaration of trust in favour of the syndicate with respect to such mining properties,

(vii) that after the sale for cash of any issued units of the syndicate no mining properties shall be acquired by the syndicate other than by staking unless such acquisition is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate that have been sold for cash,

(viii) that the administrative expenditures of the syndicate, including, in addition to any other items, salaries, office expenses, advertising and commissions paid by the syndicate with respect to the sale of its units, shall be limited to one-third of the total amount received by the treasury of the syndicate from the sale of its units,

(ix) that a statement of the receipts and disbursements of the syndicate shall be furnished to the Director and to each member annually,

(x) that 90 per cent of the vendor units of the syndicate shall be escrowed units and may be released upon the consent of the Director and that any release of such units shall not be in excess of one vendor unit for each unit of the syndicate sold for cash,

(xi) that no securities, other than those of the syndicate's own issue, or no mining properties owned by the syndicate or held in trust for the syndicate shall be disposed of unless such disposal is approved by members of the syndicate holding at least two-thirds of the issued units of the syndicate other than escrowed units; and

(*c*) where the agreement limits the capital of the syndicate to a sum not exceeding $50,000. 1966, c. 142, s. 34, (1); 1968, c. 123, s. 12 (1-3).

Receipt for filed agreement

(2) The Director may in his discretion issue a receipt for any prospecting syndicate agreement filed under this section and is not required to determine whether it is in conformity with clauses *a*, *b* and *c* of subsection 1. 1966, c. 142, s. 34 (2); 1968, c. 123, s. 12 (4).

Where R.S.O. 1970, c. 340 not to apply

(3) After a receipt is issued by the Director for a prospecting syndicate agreement, the requirements of *The Partnerships Registration Act* as to filing do not apply to the prospecting syndicate. 1966, c. 142, s. 34 (3); 1968, c. 123, s. 12 (5).

Prohibition of trading in securities issued by syndicate

(4) No person or company registered for trading in securities shall trade in a security issued by a prospecting syndicate either as agent for the prospecting syndicate or as principal. 1966, c. 142, s. 34 (4).

PART VII

TRADING IN THE COURSE OF PRIMARY DISTRIBUTION TO THE PUBLIC

Prohibition as to trading

35.—(1) No person or company shall trade in a security either on his own account or on behalf of any other person or company where such trade would be in the course of primary distribution to the public of such security until there have been filed with the Commission both a preliminary prospectus and a prospectus in respect of the offering of such security and receipts therefor obtained from the Director. 1966, c. 142, s. 35 (1); 1968, c. 123, s. 13 (1).

Receipt for preliminary prospectus

(2) The Director shall issue a receipt for the preliminary prospectus forthwith upon the filing thereof. 1966, c. 142, s. 35 (2); 1968, c. 123, s. 13 (2).

Interpretation

36.—(1) In this section, "waiting period" means the interval, which shall be at least ten days, between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of a security and the issuance by him of a receipt for the prospectus. 1966, c. 142, s. 36 (1); 1968, c. 123, s. 14.

Distribution of notice, etc., during waiting period

(2) Notwithstanding section 35 but subject to Part VIII, it is permissible during the waiting period,

(*a*) to distribute a notice, circular, advertisement or letter to or otherwise communicate with any person or company identifying the security proposed to be issued, stating the price thereof, if then determined, the name and address of a person or company from whom purchases of the security may be made and containing such further information as may be permitted or required by the regulations, if every such notice, circular, advertisement, letter or other communication states the name and address of a person or company from whom a preliminary prospectus may be obtained;

(*b*) to distribute a preliminary prospectus; and

(*c*) to solicit expressions of interest from a prospective purchaser if, prior to such solicitation or forthwith after the prospective purchaser indicates an interest in purchasing the security, a copy of the preliminary prospectus is forwarded to him. 1966, c. 142, s. 36 (2).

Record of distribution of preliminary prospectus

37. The underwriter or other person or company distributing a security in the course of primary distribution to the public shall maintain a record available for inspection by the Commission of the names and addresses of all persons and companies to whom a preliminary prospectus has been distributed. 1966, c. 142, s. 37.

Form and content of preliminary prospectus

38.—(1) A preliminary prospectus shall contain the certificates required by sections 52 and 53 and shall, subject to subsection 2, comply as to form and content substantially with the requirements of this Act and the regulations respecting a prospectus, except that the report or reports of the auditor or accountant required by section 46 need not be included.

Idem

(2) A preliminary prospectus may exclude information with respect to the price to the underwriter and the offering price to the public and other matters dependent upon or relating to such prices. 1966, c. 142, s. 38.

Statement on cover

39. A preliminary prospectus shall have printed in red ink on the outside front cover page the following statement or such variation thereof as the Director may permit:

> *This is a preliminary prospectus relating to these securities, a copy of which has been filed with the Ontario Securities Commission but which has not yet become final for the purpose of a primary distribution to the public. Information contained herein is subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time a receipt is obtained from the Ontario Securities Commission for the final prospectus.* 1966, c. 142, s. 39.

Defective preliminary prospectus

40.—(1) Where it appears to the Director that a preliminary prospectus is defective in that it does not comply substantially as to form and content with the requirements of this Act and the regulations respecting a prospectus, he may, without giving notice, order that the trading permitted by subsection 2 of section 36 in the security to which the preliminary prospectus relates shall cease until a revised preliminary prospectus satisfactory to the Director is filed with the Commission and forwarded to each recipient of the defective preliminary prospectus according to the record maintained under section 37.

Amendment to preliminary prospectus where material adverse change occurs

(2) Where a material adverse change occurs after the date of the preliminary prospectus and before the issuance of a receipt for a prospectus that makes untrue or misleading any statement of a material fact contained in the preliminary prospectus, an amendment to the preliminary prospectus shall be filed with the Commission as soon as practicable, and in any event within ten days from the date the change occurs.

Amendment to be forwarded to each recipient of preliminary prospectus

(3) An amendment to a preliminary prospectus referred to in subsection 2 shall forthwith, after it has been filed with the Commission, be forwarded to each recipient of the preliminary prospectus according to the record maintained under section 37. 1966, c. 142, s. 40.

41.—(1) A prospectus shall provide full, true and plain disclosure of all material facts relating to the security proposed to be issued. Prospectus

(2) A prospectus shall comply as to form and content with the requirements of this Act and the regulations. Form and content

(3) There shall be filed with a prospectus such documents, reports and other material as are required by the regulations. 1966, c. 142, s. 41. Supplemental material

42. If a statement required to be contained in a prospectus would otherwise be misleading, the prospectus shall contain such additional information, whether or not expressly required to be contained in the prospectus, as may be necessary to make the required statement not misleading in the light of the circumstances in which it is made. 1966, c. 142, s. 42. Additional information

43.—(1) Subject to the regulations made under clause *b* of section 147, a prospectus shall contain the following financial statements: Financial statements

1. A statement of profit and loss of the company and, unless the Director otherwise permits, of all its subsidiaries, year by year for,
   (*a*) the last five completed financial years or such shorter period as the Director permits or requires; and
   (*b*) any part of a subsequent financial year to the date at which the balance sheet required by item 4 is made up.
2. A statement of surplus year by year of the company and, unless the Director otherwise permits, of all its subsidiaries for the financial years and period covered by the statement of profit and loss referred to in item 1.
3. In the case of a mining or industrial company that is in the promotional, exploratory or developmental stage, a statement of source and application of funds or a statement of cash receipts and disbursements of the company and, unless the Director otherwise permits, of all its subsidiaries for the financial years and period referred to in item 1.
4. A balance sheet of the company and, unless the Director otherwise permits, of all its subsidiaries as at a date not more than 120 days prior to the date of the issuance of a receipt for the preliminary prospectus or the date of a new prospectus referred to in section 56, as the case may be, or as at such other date as the Director may permit or require. 1966, c. 142, s. 43 (1); 1968-69, c. 116, s. 6.

Idem

(2) Where the financial statements required by subsection 1 relate to part of a financial year, the prospectus shall also contain a statement of profit and loss, a statement of surplus or, where item 3 of subsection 1 is applicable, a statement of source and application of funds or a statement of cash receipts and disbursements, which need not be reported on by the auditor or accountant, for the comparable period in the preceding financial year.

Idem

(3) Where a statement of source and application of funds or a statement of cash receipts and disbursements is included in a prospectus, the statements of profit and loss and surplus may be omitted from the prospectus unless required to be included by the Director.

Idem

(4) The statements referred to in subsection 1 shall, unless the Director otherwise permits, be prepared on a consolidated basis. 1966, c. 142, s. 43 (2-4).

Pro forma balance sheet

44. The Director may permit or require a prospectus to contain as part of the financial statements a *pro forma* balance sheet of the company and, unless the Director otherwise permits, of all its subsidiaries as at the date at which the balance sheet required by item 4 of subsection 1 of section 43 is made up, giving effect to the issue and sale or redemption or other retirement of securities issued or to be issued by the company and to such other transactions as the Director may permit or require. 1966, c. 142, s. 44.

Where proceeds to be used in acquisition of a business

45.—(1) Where the proceeds of the securities offered by a prospectus are to be applied in whole or in part directly or indirectly, either by purchase of assets or shares, to finance the acquisition of a business, the Director may permit or require the prospectus to contain as part of the financial statements one or more of the following:

1. A *pro forma* statement combining the profits or losses year by year of the business covered by the statements referred to in item 2 and subsection 4 with those of the company or companies covered by the statements of profit and loss required by item 1 of subsection 1 and subsection 2 of section 43.

2. A statement of profit and loss year by year of the business.

3. A *pro forma* balance sheet combining the assets and liabilities of the business referred to in item 4 and the assets and liabilities shown in the balance sheet of the company or companies referred to in item 4 of subsection 1 of section 43 as at the date at which the last-mentioned balance sheet is made up.

4. A statement showing the assets and liabilities of the business as at a date not more than 120 days prior to the date of the issuance of a receipt for the preliminary prospectus or the date of a new prospectus referred to in section 56, as the case may be, or as at such other date as the Director may permit or require.

5. A statement of surplus year by year of the business.

6. Where the business is of a mining or an industrial nature and is in the promotional, exploratory or developmental stage, a statement of source and application of funds or a statement of cash receipts and disbursements.

Periods to be covered

(2) The statements referred to in items 2, 5 and 6 of subsection 1 shall cover the following:

1. The last five completed financial years of the business or such shorter period as the Director permits or requires.

2. Any part of a subsequent financial year to the date at which the balance sheet required by item 4 of subsection 1 is made up.

Where certain statements may be omitted

(3) Where a statement of source and application of funds or a statement of cash receipts and disbursements of the business is included in a prospectus, the statements of profit and loss and surplus of the business may be omitted from the prospectus unless required to be included by the Director.

Where additional statements required

(4) Where the statement referred to in item 2 of subsection 1 relates to part of a financial year, the prospectus shall also contain a statement of profit and loss, a statement of surplus or, where item 6 of subsection 1 is applicable, a statement of source and application of funds or a statement of cash receipts and disbursements, which need not be reported on by the auditor or accountant, for the comparable period in the preceding financial year.

Certain statements to be on consolidated basis

(5) The statements referred to in items 2, 4, 5 and 6 of subsection 1 and in subsection 4 shall, unless the Director otherwise permits, be prepared on a consolidated basis. 1966, c. 142, s. 45.

Prospectus to contain report on financial statements

46.—(1) A prospectus shall, except as otherwise provided in this Act, contain a report on the financial statements contained therein of a person acceptable to the Director who is the auditor of the company or of a subsidiary or is an accountant eligible for appointment as auditor of the company or of a subsidiary and, where financial statements of a business acquired or to be acquired are required or permitted, a report of a person acceptable to the Director who is the auditor of such business or is an accountant eligible for appointment as such auditor, which report shall be signed by the appropriate auditor or accountant and shall

state whether in the opinion of such auditor or accountant the financial statements referred to therein present fairly the financial position of the company, the subsidiary or the business acquired or to be acquired, as the case may be, and the results of their respective operations for the years and periods under review in accordance with generally accepted accounting principles applied on a consistent basis.

Idem

(2) If the prospectus contains a statement of source and application of funds or a statement of cash receipts and disbursements, the appropriate auditor or accountant shall include in his report a statement whether in his opinion, in effect, the statement of source and application of funds or the statement of cash receipts and disbursements, as the case may be, presents fairly the information shown therein.

Contents of report

(3) The auditor or accountant shall make such examinations as will enable him to make the report required by subsections 1 and 2, and the report shall contain such comments or qualifications as he considers necessary,

(*a*) if the financial statements required by section 43 and items 2, 4, 5 and 6 of subsection 1 of section 45 are not in agreement with the accounting records of the company or business;

(*b*) if he has not received all the information and explanations that he has required;

(*c*) if proper accounting records have not been kept, so far as appears from his examination; or

(*d*) if the financial statements required by sections 43, 44 and 45 are not prepared in accordance with the requirements of this Act and the regulations.

Where no qualification allowed

(4) The report required by subsection 1 shall not contain any qualification where it is reasonably practicable for the company, subsidiary or acquired business, as the case may be, to revise its presentation with respect to the matter that would otherwise be the subject of a qualification.

Unaudited financial statements

(5) The report required by subsection 1 need not relate to any date or period subsequent to the last completed financial year of the company or of a subsidiary and, where section 45 is applicable, to any date or period subsequent to the last completed financial year of the business acquired or to be acquired where such date is or such period ended, as the case may be, not more than ninety days before the date of the issuance of a receipt for the preliminary prospectus or such longer time as the Director may permit and not more than one year after the last completed financial year or such longer time as the Director may permit, provided that the prospectus contains a balance sheet of the company and, unless the Director otherwise permits, of all its subsidiaries as at the end

of the last financial year completed before the issuance of such receipt or as at the end of such other completed financial year as the Director may permit and, where section 45 is applicable, a balance sheet of the business acquired or to be acquired as at the end of its last financial year then completed or as at the end of such other completed financial year as the Director may permit.

Advice of auditor, etc.

(6) If, pursuant to subsection 5, a financial statement contained in a prospectus is not reported on by an auditor or accountant, there shall be filed with the Commission such advice from the auditor or accountant relating to such financial statement as may be required by the Commission. 1966, c. 142, s. 46.

Statements in prospectus to be approved by board of directors

47. Every statement of profit and loss, statement of surplus, balance sheet, statement of source and application of funds, statement of cash receipts and disbursements, *pro forma* statement of profit and loss and *pro forma* balance sheet contained in a prospectus shall be approved by the appropriate board of directors, which approval shall be evidenced by the signatures at the foot of every balance sheet and *pro forma* balance sheet of two directors duly authorized to signify each such approval. 1966, c. 142, s. 47.

Designation of statements, etc.

48. It is not necessary to designate the statements referred to in this Part as the statement of profit and loss, statement of surplus, statement of source and application of funds, statement of cash receipts and disbursements and balance sheet. 1966, c. 142, s. 48.

Separate financial statements of subsidiaries

49. The Director may direct that separate financial statements or certain of them with respect to a subsidiary of a company be included in a prospectus, whether or not the financial statements of such subsidiary are consolidated with the financial statements contained in the prospectus, and, in such event, this Part applies *mutatis mutandis* to such separate financial statements. 1966, c. 142, s. 49.

Consents of experts to be filed

50.—(1) If any solicitor, auditor, accountant, engineer, appraiser or any other person or company whose profession gives authority to a statement made by him is named as having prepared or certified any part of a prospectus or is named as having prepared or certified a report or valuation used in or in connection with a prospectus, the written consent of such person or company to the inclusion of such report or valuation shall be filed with the Commission not later than the time the prospectus is filed.

Consents may be dispensed with

(2) The Director may dispense with the filing of a consent required by subsection 1 if, in his opinion, such filing is impracticable or involves undue hardship.

Contents of consents

(3) The consent of the auditor or accountant referred to in subsection 1 shall refer to his report required by section 46, stating the date thereof and the dates of the financial statements on which the reports are made, and shall contain a statement that he has read the prospectus and that the information contained therein, which is derived from the financial statements contained in the prospectus or which is within his knowledge, is, in his opinion, presented fairly and is not misleading.

Disclosure of interest

(4) If a solicitor, auditor, accountant, engineer, appraiser or other person or company referred to in subsection 1 has directly or indirectly received or expects to receive any interest, direct or indirect, in the property of the company or any affiliate, or beneficially owns, directly or indirectly, any securities of the company or any affiliate, such interest or ownership shall be disclosed in the prospectus.

Idem

(5) If a person or company referred to in subsection 1 is or is expected to be elected, appointed or employed as a director, officer or employee of the company or any affiliate, such fact shall be disclosed in the prospectus. 1966, c. 142, s. 50 (1-5).

Exception

(6) Notwithstanding subsections 4 and 5, the Director may refuse to issue a receipt for a prospectus if a person or company referred to in subsection 1 is not acceptable to him. 1966, c. 142, s. 50 (6); 1968, c. 123, s. 15.

Further consents

51. Where any change is proposed to be made in a preliminary prospectus or prospectus that in the opinion of the Director materially affects any consent required by section 50, the Director may require that a further consent be filed with the Commission before a receipt for the amended prospectus is issued. 1966, c. 142, s. 51.

Certificate in prospectus by promoter, etc.

52.—(1) Subject to subsection 2, a prospectus shall contain a certificate in the following form, signed by the chief executive officer, the chief financial officer and, on behalf of the board of directors, by any two directors of the company, other than the foregoing, duly authorized to sign and by any person or company who is a promoter of the company:

> *The foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part VII of The Securities Act and the regulations thereunder.* 1966, c. 142, s. 52 (1); 1968, c. 123, s. 16 (1).

Exception

(2) Where the company has only three directors, two of whom are the chief executive officer and the chief financial officer, the certificate may be signed by all the directors of the company. 1968, c. 123, s. 16 (2).

(3) Where the Director is satisfied upon evidence or submissions made to him that either or both of the chief executive officer or chief financial officer of the company is for adequate cause not available to sign a certificate in a prospectus, the Director may permit the certificate to be signed by any other responsible officer or officers of the company in lieu of either or both of the chief executive officer or chief financial officer. Idem

(4) With the consent of the Director, a promoter need not sign a certificate in a prospectus. Idem

(5) The Director may, in his discretion, require any person or company who was a promoter of the company within the two preceding years to sign the certificate required by subsection 1, subject to such conditions as the Director may consider proper. Director's discretion

(6) With the consent of the Director, a promoter may sign a certificate in a prospectus by his agent duly authorized in writing. 1966, c. 142, s. 52 (2-5). Idem

53.—(1) A prospectus shall contain a certificate in the following form, signed by the underwriter or underwriters who, with respect to the securities offered by the prospectus, are in a contractual relationship with the person or company whose securities are being offered by the prospectus: Certificate in prospectus by underwriter

> *To the best of our knowledge, information and belief, the foregoing constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part VII of The Securities Act and the regulations thereunder.*

(2) With the consent of the Director, an underwriter may sign a certification in a prospectus by his agent duly authorized in writing. 1966, c. 142, s. 53. Idem

54.—(1) No person or company shall engage in the primary distribution to the public of a security to which section 35 or 56 is applicable until such person or company has notified the Commission in writing of his intention to engage in such primary distribution. Notice to Commission of primary distribution

(2) A person or company shall notify the Commission in writing when, in his opinion, he has ceased to engage in the primary distribution to the public of a security to which section 35 or 56 is applicable. 1966, c. 142, s. 54. Notice to Commission of cessation of primary distribution

55. Where a material change occurs during the period of primary distribution to the public of a security that makes untrue or misleading any statement of a material fact contained in a prospectus filed under this Part in respect of which a receipt has been issued by the Director, an amendment to the prospectus Material change during primary distribution

shall be filed with the Commission as soon as practicable, and in any event within ten days from the date the change occurs. 1966, c. 142, s. 55; 1968, c. 123, s. 17.

New prospectus to be filed after one year of primary distribution

56. Where primary distribution to the public of the security is in progress twelve months from,

(*a*) the date of the issuance of the receipt for the preliminary prospectus relating to such security; or

(*b*) the date of the last prospectus relating to such security filed under this section,

as the case may be, a new prospectus that complies with this Part shall be filed with the Commission and a receipt therefor obtained from the Director within twenty days from the expiration of the applicable twelve-month period or, subject to such terms and conditions as the Commission may require, within such greater number of days as it may permit. 1966, c. 142, s. 56; 1968, c. 123, s. 18.

Limitation on materials that may be distributed during primary distribution

57. From the date of the issuance by the Director of a receipt for a prospectus relating to a security, a person or company trading in the security in the course of primary distribution to the public, either on his own account or on behalf of any other person or company, may distribute the prospectus, any document filed with or referred to in the prospectus and any notice, circular, advertisement or letter of the nature described in clause *a* of subsection 2 of section 36, but shall not distribute any other printed or written material respecting the security that may be prohibited by the regulations. 1966, c. 142, s. 57; 1968, c. 123, s. 19.

Where s. 35 does not apply

58.—(1) Section 35 does not apply to a trade where the purchaser or proposed purchaser is a person or company referred to in item 3 of subsection 1 of section 19 or in subsection 3 of section 19 or to a trade referred to in items 6, 8, 9 and 10 of subsection 1 of section 19 or to trades from one person or company registered for trading in securities to another person or company registered for trading in securities where the purchasing person or company is acting as principal.

Idem

(2) Section 35 does not apply to securities,

(*a*) that are referred to in subsection 2 of section 19;

(*b*) that are listed and posted for trading on any stock exchange recognized by the Commission where such securities are distributed to the public through the facilities of such stock exchange pursuant to the rules of such stock exchange and the requirements of the Commission, if a statement of material facts, which shall comply as to form and content with the regulations, is

filed with and is acceptable to such stock exchange and the Commission;

(*c*) that are listed and posted for trading on any stock exchange recognized by the Commission where such securities are distributed to the public within the meaning of subparagraph ii of paragraph 13 of subsection 1 of section 1 through the facilities of such stock exchange by way of isolated trades not made in the course of continued and successive transactions of a like nature;

(*d*) that are exempted by the regulations. 1966, c. 142, s. 58 (1-2).

(3) Sections 64, 65 and 142 apply *mutatis mutandis* to a distribution under clause *b* of subsection 2 as if section 35 or 56 was applicable thereto, and the statement of material facts referred to in clause *b* of subsection 2 shall be conclusively deemed to be a prospectus for the purposes of sections 64, 65 and 142. 1966, c. 142, s. 58 (3); 1968, c. 123, s. 20. Idem

59.—(1) Where doubt exists whether a trade proposed or intended to be made in a security would be in the course of primary distribution to the public of the security, the Commission may, upon the application of an interested party, determine whether the proposed or intended trade would be in the course of primary distribution to the public of the security and rule accordingly, and such ruling is final and there is no appeal therefrom. 1966, c. 142, s. 59 (1). Determination of what constitutes primary distribution

(2) Where, upon an application under subsection 1, the Commission is satisfied that, Idem

(*a*) the number of securities is not substantial in amount in relation to the holdings of the offeror or proposed offeror; or

(*b*) the proposed purchaser is acquiring the security or securities for investment purposes with reasonable knowledge of the affairs of the issuer,

and, in the opinion of the Commission, to do so would not be prejudicial to the public interest, the Commission may rule that, subject to such terms or conditions as the Commission may impose, the trade or intended trade shall be deemed not to be a primary distribution to the public and the ruling of the Commission is final and there is no appeal therefrom. 1968, c. 123, s. 21 (1).

(3) Where the Commission determines under subsection 1 or 2 that a proposed or intended trade would not be in the course of primary distribution to the public of the security, the Commission may rule that registration is not required in respect of such trade. 1966, c. 142, s. 59 (2); 1968, c. 123, s. 21 (2). Idem

Determination of whether a primary distribution has concluded

(4) Where doubt exists whether a primary distribution to the public of any security has been concluded or is currently in progress, the Commission may determine the question and rule accordingly, and such ruling is final and there is no appeal therefrom. 1966, c. 142, s. 59 (3).

Orders to furnish information necessary for primary distribution

60.—(1) Where a person or company proposing to make a primary distribution to the public of previously distributed securities of a company is unable to obtain from the company that is the issuer of such securities information or material that is necessary for the purpose of complying with this Part, the Director may order the company that is the issuer of such securities to furnish to the person or company that proposes to make the distribution such information and material as the Director considers necessary for the purposes of the distribution, upon such terms and subject to such conditions as he considers proper, and all such information and material may be used by the person or company to whom it is furnished for the purpose of complying with this Act.

Orders waiving statutory requirements

(2) Where a person or company proposing to make a primary distribution to the public of previously distributed securities of a company is unable to obtain any or all of the signatures to the certificates required by subsection 1 of section 52 or subsection 1 of section 53, as the case may be, or otherwise to comply with this Part, the Director may, upon being satisfied that all reasonable efforts have been made to comply with this Part and that no person is likely to be prejudicially affected by such failure to comply, make such order waiving any of the provisions of this Part as he considers advisable, upon such terms and subject to such conditions as he considers proper. 1966, c. 142, s. 60.

Issue of receipts

61.—(1) The Director may in his discretion issue a receipt for any prospectus filed under this Part, unless it appears to the Director that,

(*a*) the prospectus or any document required to be filed therewith,

(i) fails to comply in any substantial respect with any of the requirements of this Part or the regulations,

(ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or

(iii) conceals or omits to state any material facts necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made;

(*b*) an unconscionable consideration has been paid or given or is intended to be paid or given for promotional purposes or for the acquisition of property;

(*c*) the proceeds from the sale of the securities to which the prospectus relates that are to be paid into the treasury of the company, together with other resources of the company, are insufficient to accomplish the purpose of the issue stated in the prospectus;

(*d*) such escrow or pooling agreement as the Director considers necessary or advisable with respect to securities issued for a consideration other than cash has not been entered into;

(*e*) that such agreement as the Director considers necessary or advisable to accomplish the objects indicated in the prospectus for the holding in trust of the proceeds payable to the company from the sale of the securities pending the distribution of such securities has not been entered into; or

(*f*) in the case of a prospectus filed by a finance company,

(i) the plan of distribution of the securities offered is not acceptable to the Director,

(ii) the securities offered are not secured in such manner, on such terms and by such means as are required by the regulations, or

(iii) such finance company does not meet such financial and other requirements and conditions as are specified in the regulations. 1966, c. 142, s. 61 (1); 1967, c. 92, s. 1 (1); 1968, c. 123, s. 22.

Idem

(2) The Director shall not make any determination under subsection 1 without making an order or ruling in writing and without giving the person or company who filed the prospectus a prior opportunity to be heard. 1966, c. 142, s. 61 (2).

Regulations

(3) The Lieutenant Governor in Council may make such regulations as he considers necessary or appropriate in the public interest pertaining to the matters referred to in clause *f* of subsection 1 and, without limiting the generality of the foregoing, pertaining to requirements as to paid up capital and surplus, liquidity of assets, ratios of debt to paid up capital and surplus, audit procedures, the furnishing of interim financial statements and the provisions of trust indentures and the qualifications, rights, duties and obligations of trustees thereunder. 1967, c. 92, s. 1 (2).

Orders to cease trading

62.—(1) Where it appears to the Commission, after the filing of a prospectus under this Part and the issuance of a receipt therefor, that any of the circumstances set out in section 61 exist, the Commission may order that all trading in the primary distribution to the public of the securities to which the prospectus relates shall cease.

Idem

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof. 1966, c. 142, s. 62 (1, 2).

Notice

(3) A notice of every order made under this section shall be served upon the company to whose securities the prospectus relates and upon every registrant who has notified the Commission of his intention to engage in the primary distribution to the public of the securities, and forthwith upon the receipt of the notice,

(*a*) no further trades shall be made in the course of primary distribution to the public of the securities named in the order by any person or company; and

(*b*) any receipt issued by the Director for the prospectus is *ipso facto* revoked. 1966, c. 142, s. 62 (3); 1968, c. 123, s. 23.

Additional information, finance company

63.—(1) While primary distribution to the public of the securities to which the prospectus of a finance company relates is in progress, the Director may from time to time require the finance company to furnish to him a statement of source and application of funds or of cash receipts and disbursements in such form and for such period or periods as he may specify and such other information as may enable the Director to satisfy himself that,

(i) the securities are being distributed in a manner acceptable to him,

(ii) the securities are secured in such manner, on such terms and by such means as are required by the regulations, and

(iii) as at such date as may be acceptable to the Director the finance company met such financial and other requirements and conditions as are specified in the regulations.

Order to cease trading

(2) Where the Director reports to the Commission that he is not satisfied with any statement or as to any matter referred to in subsection 1, the Commission may order that all trading in the primary distribution to the public of the securities to which the prospectus of the finance company relates shall cease and in any such case subsections 2 and 3 of section 62 apply as if the order were made under that section. 1967, c. 92, s. 2.

Obligation to deliver prospectus

64.—(1) A person or company not acting as agent of the purchaser who receives an order or subscription for a security offered in the course of primary distribution to the public to which

section 35 or 56 is applicable shall, unless he has previously done so, send by prepaid mail or deliver to the purchaser the prospectus or amended prospectus, whichever is the latest required to be filed with the Commission, either before entering into an agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after entering into such agreement.

Withdrawal from purchase

(2) An agreement of purchase and sale referred to in subsection 1 is not binding upon the purchaser if the person or company from whom the purchaser purchased the security receives written or telegraphic notice evidencing the intention of the purchaser not to be bound by the agreement of purchase and sale not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after receipt by the purchaser of the prospectus or amended prospectus, whichever is the last required to be filed with the Commission.

Where subs. 2 does not apply

(3) Subsection 2 does not apply if the purchaser is a registrant or if the purchaser sells or otherwise transfers beneficial ownership of the security referred to in subsection 2, otherwise than to secure indebtedness, before the expiration of the time referred to in subsection 2.

Time of receipt

(4) For the purpose of this section, where a prospectus or amended prospectus is sent by prepaid mail, the prospectus or amended prospectus shall be deemed conclusively to be received in the ordinary course of mail by the person or company to whom it was addressed.

Receipt of prospectus by agent

(5) The receipt of a prospectus or amended prospectus by a person or company who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a security referred to in subsection 1 shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such prospectus or amended prospectus.

Receipt of notice by agent

(6) The receipt of the notice referred to in subsection 2 by a person or company who acted as agent of the vendor with respect to the sale of a security referred to in subsection 1 shall, for the purpose of this section, be receipt by the vendor as of the date on which the agent received such notice.

Where person or company acting as agent

(7) For the purpose of this section, a person or company shall not be considered to be acting as agent of the purchaser unless the person or company is acting solely as the agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale.

Onus of proof

(8) The onus of proving that the time for giving notice under subsection 2 has expired is upon the person or company from whom the purchaser agreed to purchase the security.

Statement of rights

(9) Every prospectus shall contain a statement of the rights given to a purchaser by this section. 1966, c. 142, s. 63.

Right to rescind

65.—(1) A person or company that is a party to a contract as purchaser resulting from the offer of a security in the course of primary distribution to the public to which section 35 or 56 is applicable has a right to rescind the contract while still the owner of the security if the prospectus and any amended prospectus then filed with the Commission in compliance with section 55 received by the purchaser, as of the date of receipt, contains an untrue statement of a material fact or omits to state a material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made.

Period of limitation

(2) No action shall be commenced under this section after the expiration of ninety days from the last to occur of the receipt of the prospectus or amended prospectus by the purchaser or the date of the contract referred to in subsection 1.

Where subs. 1 does not apply

(3) Subsection 1 does not apply to an untrue statement of a material fact or an omission to state a material fact,

(*a*) if the untruth of such statement or the fact of such omission was unknown both to the person or company whose securities are being offered by the prospectus and to the underwriter referred to in subsection 1 of section 53 and, in the exercise of reasonable diligence, could not have been known to such person or company or to such underwriter;

(*b*) if such statement or omission is disclosed in an amended prospectus filed in compliance with section 55 and such amended prospectus was received by the purchaser; or

(*c*) if the purchaser knew of the untruth of the statement or knew of the omission at the time he purchased the security.

Time of receipt

(4) For the purpose of this section, where a prospectus or amended prospectus is sent by prepaid mail, it shall be deemed to be received in the ordinary course of mail by the person or company to whom it was addressed.

Receipt of prospectus by agent to be receipt by purchaser

(5) The receipt of a prospectus or amended prospectus by a person or company who is acting as agent of or who thereafter commences to act as agent of the purchaser with respect to the purchase of a security referred to in subsection 1 shall, for the purpose of this section, be receipt by the purchaser as of the date on which the agent received such prospectus or amended prospectus.

(6) For the purpose of this section, a person or company shall not be considered to be acting as agent of the purchaser unless the person or company is acting solely as the agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale. Where person or company acting as agent

(7) The cause of action conferred by this section is in addition to and without derogation from any other right the purchaser may have at law. No derogation of rights

(8) Every prospectus shall contain a statement of the right of rescission provided by this section. 1966, c. 142, s. 64. Statement of right of rescission

66. If any securities proposed to be distributed would, if distributed by a company, be in the course of primary distribution to the public, this Part and the regulations apply *mutatis mutandis* to the person, trust or other entity proposing to distribute the securities. 1966, c. 142, s. 65. Extended application of Part

PART VIII

TRADING IN SECURITIES GENERALLY

67.—(1) Every person or company registered for trading in securities who has acted as principal or agent in connection with any trade in a security shall promptly send or deliver to the customer a written confirmation of the transaction, setting forth, Confirmation of trade

(*a*) the quantity and description of the security;

(*b*) the consideration;

(*c*) whether or not the person or company registered for trading in securities is acting as principal or agent;

(*d*) if acting as agent in a trade upon a stock exchange recognized by the Commission, the name of the person or company from or to or through whom the security was bought or sold;

(*e*) the day and the name of the stock exchange, if any, upon which the transaction took place;

(*f*) the commission, if any, charged in respect of the trade; and

(*g*) the name of the salesman, if any, in the transaction. 1966, c. 142, s. 66 (1).

(2) For the purposes of clauses *d* and *g*, a person or company or a salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a Exception

statement that the name of the person, company or salesman will be furnished to the customer on request.

Identity by code or symbols

(3) Where a person or company uses a code or symbols for identification in a confirmation under subsection 1, the person or company shall forthwith file the code or symbols and their meaning with the Commission, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning. 1968, c. 123, s. 24.

Agent to disclose name of principal upon request by Commission

(4) Every person or company registered for trading in securities who has acted as agent in connection with any trade in a security shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the security was bought or sold. 1966, c. 142, s. 66 (3).

Calling at or telephoning residence

68.—(1) No person or company shall,

(*a*) call at any residence; or

(*b*) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any security with any member of the public. 1966, c. 142, s. 67 (1); 1968, c. 123, s. 25 (1).

Exceptions

(2) Subsection 1 does not apply,

(*a*) where the person or company calls at or telephones to the residence,

(i) of a close personal friend, a business associate or a customer with whom or on whose behalf the person or company calling or telephoning has been in the habit of trading in securities, or

(ii) of a person who has requested in writing that information respecting a specific security be furnished him by the person or company so calling or telephoning, but in such case the person or company so calling or telephoning shall call or telephone only in reference to that security; or

(*b*) to a trade in any security in respect of which registration is not required. 1966, c. 142, s. 67 (2); 1968, c. 123, s. 25 (2).

Interpretation

(3) In this section, "residence" includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto. 1966, c. 142, s. 67 (3).

When calls or telephoning by company

(4) For the purposes of subsections 1 and 2, a company shall be deemed to have called or telephoned where an officer, trading

official or salesman of the company calls or telephones on its behalf. 1968, c. 123, s. 25 (3).

Prohibition of representations

69.—(1) No person or company, with the intention of effecting a trade in a security other than a security that carries a right of redemption or repurchase by the person or company issuing such security, shall make any representation, written or oral, that he or any person or company,

(*a*) will resell or repurchase; or

(*b*) will refund all or any of the purchase price of,

any such security in which he is trading.

Promises

(2) No person or company, with the intention of effecting a trade in a security, shall give any undertaking, written or oral, relating to the future value or price of such security.

Representation that security will be listed on stock exchange

(3) No person or company, with the intention of effecting a trade in a security, shall, except with the written permission of the Director, make any representation, written or oral, that such security will be listed on any stock exchange or that application has been or will be made to list such security upon any stock exchange.

Where section does not apply

(4) This section does not apply to any representation referred to in subsection 1 made to a person, other than an individual, or to a company where the representation is contained in a written agreement signed by the person or company intending to effect a trade in a security and the security has an aggregate acquisition cost of more than $50,000. 1966, c. 142, s. 68.

Notice where acting as principal

70.—(1) Where a person or company registered for trading in securities, with the intention of effecting a trade in a security with any person or company other than a person or company registered for trading in securities, issues, publishes or sends a circular, pamphlet, letter, telegram or advertisement, and proposes to act in such trade as a principal, such person or company shall so state in the circular, pamphlet, letter, telegram or advertisement or otherwise in writing before entering into a contract for the sale or purchase of any such security and before accepting payment or receiving any security or other consideration under or in anticipation of any such contract.

Written confirmation

(2) Where a person or company registered for trading in securities, with the intention of effecting a trade in a security with any person or company other than a person or company registered for trading in securities, makes an oral offer or invitation for an offer to any person or company and effects such trade as a principal, such person or company shall state in a written confirmation of the contract that he has acted as principal.

Acting as agent

(3) A statement made in compliance with this section that a person or company registered for trading in securities proposes to act or has acted as principal in connection with a trade in a security does not prevent such person or company from acting as agent in connection with a trade in such security.

Where section not applicable

(4) This section does not apply to trades referred to in subsection 1 of section 19 or to securities referred to in subsection 2 of section 19. 1966, c. 142, s. 69.

Rescission of contract

71.—(1) If subsection 1 of section 70 applies to a contract and such subsection is not complied with, a person or company that has entered into such contract is entitled to rescission thereof by serving written notice of rescission on the person or company registered for trading in securities within sixty days of the date of the delivery of the security to or by such person or company, as the case may be, but, in the case of a purchase by such person or company, only if he is still the owner of the security purchased.

Idem

(2) If subsection 2 of section 70 applies to a contract and such subsection is not complied with, a person or company that has entered into such contract is entitled to rescission thereof by serving written notice of rescission on the person or company registered for trading in securities within seven days of the date of the delivery of the written confirmation of the contract but, in the case of a purchase by such person or company, only if he is still the owner of the security purchased.

Onus

(3) In an action for rescission to which this section applies, the onus of proving compliance with section 70 is upon the person or company registered for trading in securities.

Period of limitation

(4) No action shall be commenced under this section after the expiration of a period of three months from the date of the service of notice under subsection 1 or 2. 1966, c. 142, s. 70.

Disclosure of financial interest by advisers

72. Every registered adviser shall cause to be printed in a conspicuous position on every circular, pamphlet, advertisement, letter, telegram and other publication issued, published or sent by him, in type not less legible than that used in the body of the circular, pamphlet, advertisement, letter or other publication, a full and complete statement of any financial or other interest that he may have either directly or indirectly in any securities referred to therein or in the sale or purchase thereof, including,

(*a*) any ownership, beneficial or otherwise, that he may have in such securities or in any securities issued by the same person or company;

(*b*) any option that he may have in respect of such securities, and the terms thereof;

(*c*) any commission or other remuneration that he has received or may expect to receive from any person or company registered for trading in securities or otherwise in connection with any trade in such securities;

(*d*) any financial arrangement that he may have with any person or company registered for trading in securities relating to such securities; and

(*e*) any financial arrangement that he may have with any underwriter or other person or company who has any interest in such securities. 1966, c. 142, s. 71; 1968-69, c. 116, s. 7.

Publication of names

73. Every partnership or company registered for trading in securities shall publish the name of every person having an interest, either directly or indirectly, to the extent of not less than 5 per cent in the capital of the partnership or company, as the case may be, on all letterheads, circulars and other stationery or in a prospectus upon or in which the name of the partnership or company appears as underwriter and that contain any offer or solicitation respecting a trade in securities. 1966, c. 142, s. 72.

Use of name of another registrant

74. No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless he is a partner, officer or agent of or is authorized so to do in writing by the other registrant. 1966, c. 142, s. 73.

Registration not to be advertised

75. No person or company shall hold himself out as being a registrant by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he is a registrant. 1966, c. 142, s. 74.

Holding out by unregistered persons

76. No person or company who is not a registrant shall, either directly or indirectly, hold himself out as being a registrant. 1966, c. 142, s. 75.

Advertising Commission's approval

77. No person or company shall make any representation, written or oral, that the Commission has in any way passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any security. 1966, c. 142, s. 76.

Margin contracts

78.—(1) Where a person, or a partner or employee of a partnership, or a director, officer of employee of a company, after he or the partnership or company has contracted as a person or company registered for trading in securities with any customer to buy and carry upon margin any securities of any person or company either in Canada or elsewhere, and, while such contract

continues, sells or causes to be sold securities of the same person or company for any account in which,

(*a*) he;

(*b*) his firm or a partner thereof; or

(*c*) the company or a director thereof,

has a direct or indirect interest, if the effect of such sale would, otherwise than unintentionally, be to reduce the amount of such securities in the hands of the person or company registered for trading in securities or under his control in the ordinary course of business below the amount of such securities that he should be carrying for all customers, any such contract with a customer is, at the option of the customer, void, and the customer may recover from the person or company registered for trading in securities all moneys paid with interest thereon or securities deposited in respect thereof.

Exercise of option

(2) The customer may exercise such option by a notice to that effect sent by prepaid mail addressed to the person or company registered for trading in securities at his address for service in Ontario. 1966, c. 142, s. 77.

Declaration as to short position

79. Any person or company who places an order for the sale of a security through an agent acting for him that is registered for trading in securities and,

(*a*) at the time of placing the order, does not own the security; or

(*b*) if acting as agent, knows his principal does not own the security,

shall, at the time of placing the order to sell, declare to his agent that he or his principal, as the case may be, does not own the security. 1966, c. 142, s. 78.

Shares in name of registrant not to be voted, saving

80.—(1) Subject to subsections 3 and 4, shares of a company that are registered in the name of a registrant or in the name of his nominee that are not beneficially owned by the registrant shall not be voted at any meeting of shareholders of the company unless the registrant forthwith after receipt of the material referred to in clause *a* sends or delivers to each person or company who is the beneficial owner of such shares, at no expense to such person or company,

(*a*) a copy of the notice of the meeting, the financial statements, the information circular and any other material, other than the form of proxy, sent to shareholders by or on behalf of any person or company for use in connection with the meeting; and

(*b*) a written request for voting instructions from the beneficial owner which states that, if voting instructions are not received at least twenty-four hours prior to the expiry of the time within which proxies may be deposited with the company as specified in the notice calling the meeting or otherwise or, if not so specified, twenty-four hours prior to the time fixed for holding the meeting, a proxy in respect of such shares may be given or the shares otherwise voted at the meeting at the discretion of the registrant.

Where registrant not to vote shares

(2) A registrant shall not vote or cause to be voted shares registered in his name or in the name of his nominee that he does not beneficially own if he does not know who is the beneficial owner of the shares.

Copies of material to be furnished

(3) A company shall, at the request of a registrant, forthwith furnish to the registrant at the company's expense the requisite number of copies of the material referred to in clause *a* of subsection 1.

Voting of shares

(4) A registrant shall vote or give a proxy requiring a nominee to vote any shares referred to in subsection 1 in accordance with any written voting instructions received from the beneficial owner.

Proxies

(5) A registrant shall, if requested by a beneficial owner, give to the beneficial owner or his nominee a proxy enabling the beneficial owner or his nominee to vote any shares referred to in subsection 1.

Shareholders meetings not affected

(6) The failure of a registrant to comply with this section does not affect the validity of any meeting of shareholders or any proceedings taken thereat.

Voting rights not extended

(7) Nothing in this section gives a registrant the right to vote shares that he is otherwise prohibited from voting. 1966, c. 142, s. 79.

PART IX

TAKE-OVER BIDS

Interpretation

81. In this Part,

(*a*) "directors' circular" means the circular prescribed by Division D of this Part;

(*b*) "exempt offer" means,

(i) an offer to purchase shares by way of private agreement with individual shareholders and not made to shareholders generally,

(ii) an offer to purchase shares to be effected through the facilities of a stock exchange or in the over-the-counter market,

(iii) an offer to purchase shares in a private company or in a public company that has fewer than fifteen shareholders whose latest address as shown on the books of the offeree company is in Ontario, two or more persons who are joint registered owners of one or more shares being counted as one shareholder, or

(iv) an offer exempted by order of a judge of the High Court designated by the Chief Justice of the High Court made pursuant to section 90;

(*c*) "offeree" means a person or company to whom a take-over bid is made and whose latest address as shown on the books of the offeree company is in Ontario;

(*d*) "offeree company" means a company whose shares are the subject of a take-over bid;

(*e*) "offeror" means a person or company, other than an agent, who makes a take-over bid, and includes two or more persons or companies,

(i) whose take-over bids are made jointly or in concert, or

(ii) who intend to exercise jointly or in concert any voting rights attaching to the shares for which a take-over bid is made;

(*f*) "offeror's presently-owned shares" means equity shares of an offeree company beneficially owned, directly or indirectly, on the date of a take-over bid by the offeror or an associate of the offeror;

(*g*) "take-over bid" means an offer, other than an exempt offer, made to shareholders the latest address of any of whom as shown on the books of the offeree company is in Ontario to purchase such number of equity shares of a company that, together with the offeror's presently-owned shares, will in the aggregate exceed 20 per cent of the outstanding equity shares of the company;

(*h*) "undisclosed principal" means any person or company on whose behalf a take-over bid is made whose identity is not disclosed in the take-over bid or in the take-over bid circular. 1966, c. 142, s. 80.

Provisions applicable to take-over bids

82. The following provisions apply to every take-over bid:

1. The period of time within which shares may be deposited pursuant to a take-over bid shall not be less than twenty-one days from the date thereof.

2. Any shares deposited pursuant to a take-over bid shall not be taken up and paid for by the offeror until the expiration of seven days from its date.

3. Any shares deposited pursuant to a take-over bid may be withdrawn by or on behalf of an offeree at any time until the expiration of seven days from its date.

4. Where a take-over bid is made for less than all the equity shares of a class owned by offerees, shares deposited pursuant thereto shall not be taken up and paid for by an offeror until the expiration of twenty-one days from its date.

5. Where a take-over bid is made for less than all the equity shares of a class owned by offerees, the period of time within which shares may be deposited pursuant to the take-over bid, or any extension thereof, shall not exceed thirty-five days from the date of the take-over bid.

6. Where a take-over bid is made for less than all the equity shares of a class owned by offerees, shares deposited pursuant to the take-over bid shall be taken up and paid for, if all the terms and conditions thereof not waived by the offeror have been complied with, within fourteen days after the last day within which shares may be deposited pursuant thereto.

7. Where a take-over bid is made for less than all the equity shares of a class owned by offerees and where a greater number of shares is deposited pursuant thereto than the offeror is bound or willing to take up and pay for, the shares taken up by the offeror shall be taken up as nearly as may be *pro rata*, disregarding fractions, according to the number of shares deposited by each offeree. 1966, c. 142, s. 81.

DIVISION A—GENERAL PROVISIONS

To be sent by mail

83. A take-over bid shall be sent by prepaid mail to the offerees and shall be deemed conclusively to have been dated as of the date on which it was so sent. 1966, c. 142, s. 82.

Where terms varied

84.—(1) Where the terms of a take-over bid are varied before the expiration thereof by increasing the consideration offered for the equity shares of an offeree company, the offeror shall pay such increased consideration to each offeree whose shares are taken up and paid for pursuant to the take-over bid whether or not such shares have been taken up by the offeror before the variation of the take-over bid.

Where take-over bid converted

(2) Where a take-over bid for all the equity shares of a class owned by offerees is converted, by amendment or otherwise, to a bid for less than all the equity shares of a class owned by offerees, the take-over bid shall be conclusively deemed to be for less than all the equity shares of a class owned by offerees. 1966, c. 142, s. 83.

Where consideration is cash

85. Where a take-over bid provides that the consideration for the shares deposited pursuant thereto is to be paid in cash or partly in cash, the offeror shall make adequate arrangements to ensure that the required funds are available to effect payment in full for all shares owned by offerees that the offeror has offered to purchase pursuant to the take-over bid. 1966, c. 142, s. 84.

Circular required

86.—(1) A take-over bid circular shall form part of or accompany a take-over bid.

Contents of circular

(2) Every take-over bid circular shall contain the information prescribed by Division B of this Part.

Where consideration is securities

(3) Where a take-over bid provides that the consideration for the shares of the offeree company is to be, in whole or in part, securities of a company, the take-over bid circular shall contain the additional information prescribed by Division C of this Part. 1966, c. 142, s. 85.

Directors' circular

87.—(1) Where the directors of an offeree company recommend to offerees acceptance or rejection of a take-over bid made to such offerees, the directors shall send or cause to be sent to each offeree a directors' circular, which shall contain the information prescribed by Division D of this Part.

To be sent by mail

(2) A directors' circular shall form part of or accompany the communication of the directors and shall be sent to each offeree by prepaid mail at his latest address as shown on the books of the company. 1966, c. 142, s. 86.

Experts' reports

88. No report, opinion or statement of a solicitor, auditor, accountant, engineer, appraiser or any other person or company whose profession gives authority to a statement made by him shall form part of or accompany a take-over bid or a directors' circular unless such person or company has consented in writing to the use of the report, opinion or statement. 1966, c. 142, s. 87.

Approval of circulars

89.—(1) Where a take-over bid is made by or on behalf of a company, the contents of the take-over bid circular shall be approved and the delivery thereof authorized by the directors of the company.

Idem

(2) The contents of a directors' circular shall be approved and the delivery thereof authorized by the directors of the offeree company. 1966, c. 142, s. 88.

90.—(1) Any person or company may apply to a judge of the High Court designated by the Chief Justice of the High Court for an order declaring a take-over bid to be an exempt offer, and the judge may, upon such terms and conditions as he may impose, order the proposed offer to be exempt. Application to declare bid to be an exempt offer

(2) The applicant shall give the Commission notice of any application under subsection 1, and the Commission has the right to appear and be heard thereon. Notice

(3) An appeal lies to the Court of Appeal from any order made under subsection 1. 1966, c. 142, s. 89. Appeal

DIVISION B—CONTENTS OF TAKE-OVER BID CIRCULARS

91. A take-over bid circular shall contain the following information: Contents of take-over bid circulars

1. The number, without duplication, and designation of any securities of the offeree company beneficially owned, directly or indirectly,
   i. by the offeror,
   ii. by an associate of the offeror,
   iii. by each director and each senior officer of the offeror and their associates, and
   iv. where known to the directors or senior officers of the offeror, by a person or company who beneficially owns, directly or indirectly, equity shares of the offeror carrying more than 10 per cent of the voting rights attached to all equity shares of the offeror for the time being outstanding,

   or, if none are so owned, a statement to that effect.

2. Where known to the directors or senior officers of the offeror, the number and designation of any equity shares of the offeree company traded by the persons or companies referred to in item 1 during the six-month period preceding the date of the take-over bid, including the purchase or sale price and the date of each such transaction.

3. Where the obligation of the offeror to take up and pay for shares under a take-over bid is conditional upon a minimum number of shares being deposited pursuant thereto, the particulars of such condition.

4. The particulars of the method and time of payment of the cash or other consideration to be paid for the shares of the offeree company.

5. A statement that any shares deposited pursuant to the take-over bid may be withdrawn by or on behalf of the offeree at any time until the expiration of seven days from its date.

6. Where the shares in the offeree company sought to be acquired pursuant to the take-over bid are to be paid for in whole or in part in cash, details of the arrangements that have been made by the offeror to ensure that the required funds are available to take up and pay for the shares of the offeree company deposited pursuant to the take-over bid.

7. Where reasonably ascertainable, a summary showing in reasonable detail the volume of trading and price range of the shares of the offeree company sought to be acquired pursuant to the take-over bid in the six-month period preceding the date of the take-over bid.

8. The particulars of any arrangement or agreement made or proposed to be made between the offeror and any of the directors or senior officers of the offeree company, including particulars of any payment or other benefit proposed to be made or given by way of compensation for loss of office or as to their remaining in or retiring from office, if the take-over bid is successful.

9. The particulars of any information known to the offeror that indicates any material change in the financial position or prospects of the offeree company since the date of the last published interim or annual financial statement of the offeree company. 1966, c. 142, s. 90.

Where principal undisclosed

92. Where a take-over bid is made by or on behalf of an undisclosed principal, the undisclosed principal shall be deemed to be the offeror for the purposes of compliance with this Division. 1966, c. 142, s. 91.

Where offeror a company

93. Where a take-over bid is made by or on behalf of a company, the take-over bid circular shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the offeror. 1966, c. 142, s. 92.

Expert's reports to be reproduced

94. The consent of a person or company required by section 88 to the inclusion of his report, opinion or statement in a take-over bid or in the material accompanying the take-over bid shall be reproduced in the take-over bid circular. 1966, c. 142, s. 93.

DIVISION C—SHARE EXCHANGE TAKE-OVER BIDS

95.—(1) A take-over bid circular required by subsection 3 of section 86 shall contain: Contents of take-over bid circular where consideration is securities

1. The information prescribed by the appropriate form of prospectus set out in the regulations that provides the most significant information concerning the affairs of the company whose securities are being offered in exchange for the shares of the offeree company.

2. The financial statements of the company whose securities are offered in exchange for the shares of the offeree company.

3. The particulars of any information known to the offeror that indicates any material change in the financial position or prospects of the company whose securities are offered in exchange for the shares of the offeree company since the date of the last published interim or annual financial statement of such company.

(2) The financial statements referred to in item 2 of subsection 1 shall comply *mutatis mutandis* with the requirements of Part VII, except that the financial statements need not include any *pro forma* or other statement referred to in sections 44 and 45. 1966, c. 142, s. 94. Financial statements

DIVISION D—CONTENTS OF DIRECTORS' CIRCULARS

96. A directors' circular shall contain the following information: Contents of directors' circulars

1. The number, without duplication, and designation of any securities of the offeree company beneficially owned, directly or indirectly, by each director and each senior officer of the offeree company and their associates and, where known to the directors or senior officers, by each person or company who beneficially owns, directly or indirectly, equity shares of the offeree company carrying more than 10 per cent of the voting rights attached to all equity shares of the offeree company for the time being outstanding or, in each case, if none are so owned, a statement to that effect.

2. A statement as to whether each director and senior officer of the offeree company and their associates, and, where known to the directors or senior officers, each person or company who beneficially owns, directly or indirectly, equity shares of the offeree company carrying more than 10 per cent of the voting rights attached to all equity shares of the offeree company for the time being outstanding, has accepted or intends to accept the

offer in respect of any shares of the offeree company sought to be acquired.

3. Where a take-over bid is made by or on behalf of a company, the number, without duplication, and designation of any securities of the offeror beneficially owned, directly or indirectly, by each director and each senior officer of the offeree company and their associates and, where known to the directors or senior officers, by each person or company who beneficially owns, directly or indirectly, equity shares of the offeree company carrying more than 10 per cent of the voting rights attached to all equity shares of the offeree company for the time being outstanding.

4. The particulars of any arrangement or agreement made or proposed to be made between the offeror and any of the directors or senior officers of the offeree company, including particulars of any payment or other benefit proposed to be made or given by way of compensation for loss of office or as to their remaining in or retiring from office if the take-over bid is successful.

5. Whether any director or senior officer of the offeree company and their associates and, where known to the directors or senior officers, whether any person or company who beneficially owns, directly or indirectly, equity shares of the offeree company carrying more than 10 per cent of the voting rights attached to all equity shares of the offeree company for the time being outstanding has any interest in any material contract to which the offeror is a party, and, if so, particulars of the nature and extent of such interest.

6. Where reasonably ascertainable, a summary showing in reasonable detail the volume of trading and the price range of the shares sought to be acquired pursuant to the take-over bid in the six-month period preceding the date thereof if such information is not disclosed in the take-over bid circular or if, in the opinion of the directors of the offeree company, such information is not adequately disclosed therein.

7. The particulars of any information known to any of the directors or senior officers of the offeree company that indicate any material change in the financial position or prospects of the offeree company since the date of the last published interim or annual financial statement of the offeree company.

8. The particulars of any other material facts not disclosed in the foregoing. 1966, c. 142, s. 95.

97. The consent of a person or company required by section 88 to the inclusion of his report, statement or opinion in a directors' circular or in the material accompanying the directors' circular shall be reproduced in the directors' circular. 1966, c. 142, s. 96. Expert's reports to be reproduced

98. Where any financial statements of the offeree company accompany or form part of a directors' circular, such statements, if not reported upon by the auditor of the company, shall be accompanied by a report of the chief financial officer of the company who shall state in his report whether in his opinion the financial statements referred to therein present fairly the financial position of the offeree company and the results of its operations for the period under review. 1966, c. 142, s. 97. Financial statements

99. A directors' circular shall contain a statement that the contents thereof have been approved and the delivery thereof authorized by the directors of the offeree company. 1966, c. 142, s. 98. Approval of directors' circular

OFFENCES

100.—(1) An offeror, whether or not an undisclosed principal, who makes a take-over bid that fails to comply with section 82 or 83 or who, in the course of effecting a take-over bid, Offences, offerors

(*a*) fails to comply with sections 84 or 85, where applicable;

(*b*) fails to cause a take-over bid circular to form part of or accompany the take-over bid as required by subsection 1 of section 86;

(*c*) mails a take-over bid circular that does not contain the information, statements or consents prescribed by Division B or contains any information that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statements contained therein false or misleading; or

(*d*) mails a take-over bid circular to which subsection 3 of section 86 applies that does not contain the information, statements, consents and reports prescribed by Division C or contains any information that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statements contained therein false or misleading,

is guilty of an offence and on summary conviction is liable to a fine of not more than $25,000 or to imprisonment for a term of not more than one year, or to both, and every person or company who authorizes, permits or acquiesces in any such act or failure is also

guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Idem, directors

(2) Every director of an offeree company who authorizes, permits or acquiesces in recommending to the shareholders of the offeree company by means of a directors' circular acceptance or rejection of a take-over bid without complying with section 87 is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000.

Idem

(3) Every director of an offeree company who authorizes, permits or acquiesces in the mailing of a directors' circular that does not contain the information, statements, consents and reports prescribed by Division D or contains any information that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement contained therein false or misleading, is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000.

Defence

(4) No person or company is guilty of an offence under clause *c* or *d* of subsection 1 or under subsection 3 in respect of any untrue statement of a material fact or omission to state a material fact in a take-over bid circular or directors' circular, as the case may be, if the untruth of such statement or the fact of such omission was not known to the person or company who authorized, permitted or acquiesced in the mailing of the take-over bid circular or the directors' circular, as the case may be, and in the exercise of reasonable diligence could not have been known to such person or company. 1966, c. 142, s. 99.

PART X

PROXIES AND PROXY SOLICITATION

Interpretation

101. In this Part,

(*a*) "corporation" means a company,

(i) that has issued equity shares that on or after the 1st day of May, 1967 are distributed in the course of a primary distribution to the public, in respect of which a prospectus is filed with the Commission and a receipt therefor obtained, or

(ii) any of whose shares are listed and posted for trading on any stock exchange in Ontario recognized by the Commission,

other than,

(iii) a company incorporated by or under a general or special Act of the Legislature or a company to

which Part II of *The Corporations Act* or *The Business Corporations Act* applies, or R.S.O. 1970, cc. 89, 53

(iv) a bank to which the *Bank Act* (Canada) applies; 1966-67, c. 87 (Can.)

(*b*) "information circular" means the circular referred to in subsection 1 of section 103;

(*c*) "solicit" and "solicitation" include,

(i) any request for a proxy whether or not accompanied by or included in a form of proxy,

(ii) any request to execute or not to execute a form of proxy or to revoke a proxy,

(iii) the sending or delivery of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and

(iv) the sending or delivery of a form of proxy to a shareholder under section 102,

but do not include,

(v) the sending or delivery of a form of proxy to a shareholder in response to an unsolicited request made by him or on his behalf, or

(vi) the performance by any person or company of ministerial acts or professional services on behalf of a person or company soliciting a proxy. 1966, c. 142, s. 100, *amended*.

102.—(1) Subject to section 104, if the management of a corporation gives or intends to give to its shareholders notice of a meeting of shareholders, the management shall, concurrently with or prior to giving such notice to shareholders whose latest address as shown on the books of the corporation is in Ontario, send by prepaid mail to each such shareholder, who is entitled to vote at such meeting, at his latest address as shown on the books of the corporation a form of proxy for use at such meeting that complies with section 105. Mandatory solicitation of proxies

(2) If the management of a corporation fails to comply with subsection 1, the corporation is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000, and every director or officer of the corporation who authorized, permitted or acquiesced in such failure is also guilty of an offence and on summary conviction is liable to a fine of not more than $1,000. 1966, c. 142, s. 101. Offence

103.—(1) Subject to subsection 2 and section 104, no person or company shall solicit proxies from shareholders whose latest address as shown on the books of the corporation is in Ontario unless, Information circular

(*a*) in the case of a solicitation by or on behalf of the management of a corporation, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each such shareholder of the corporation whose proxy is solicited at his latest address as shown on the books of the corporation; or

(*b*) in the case of any other solicitation, the person or company making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each such shareholder whose proxy is solicited.

Where subs. 1 does not apply

(2) Subsection 1 does not apply to,

(*a*) any solicitation, otherwise than by or on behalf of the management of a corporation, where the total number of shareholders whose proxies are solicited is not more than fifteen, two or more persons or companies who are the joint registered owners of one or more shares being counted as one shareholder;

(*b*) any solicitation by a person or company made under section 80; or

(*c*) any solicitation by a person or company in respect of shares of which he is the beneficial owner.

Offence

(3) A person or company that fails to comply with subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000, and where a company fails to comply, every director or officer of such company who authorized, permitted or acquiesced in such failure is also guilty of an offence and on summary conviction is liable to a fine of not more than $1,000.

Idem

(4) A person or company that effects a solicitation which is subject to this section by means of a form of proxy, information circular or other communication that contains an untrue statement of a material fact or omits to state a material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000, and, where a company is guilty of such an offence, every director or officer of such company who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than $1,000.

Where subs. 4 does not apply

(5) No person or company is guilty of an offence under subsection 4 in respect of any untrue statement of a material fact or omission to state a material fact in a form of proxy or information circular if the untruth of such statement or the fact of such omission was not known to the person or company that

effected the solicitation and in the exercise of reasonable diligence could not have been known to such person or company. 1966, c. 142, s. 102.

Where Part X not to apply

104.—(1) If a requirement of this Part, in so far as it is applicable to a corporation incorporated by or under a special or general Act of the Parliament of Canada, conflicts with or is substantially similar to a requirement of the laws of Canada, the requirement of this Part does not apply.

Conflict

(2) Subject to subsection 1, upon the application of any interested person or company, the Commission may,

(*a*) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction in which a company is incorporated; or

(*b*) if the laws of a jurisdiction to which the corporation is subject contain substantially similar requirements as contained in this Part; or

(*c*) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as seem to the Commission just and expedient exempting, in whole or in part, a person or company from the requirements of this Part.

When this Part ceases to apply

(3) A corporation that is subject to this Part by virtue only of subclause i of clause *a* of section 101 ceases to be subject to this Part if the corporation does not have owners of its equity shares whose latest address as shown on the books of the corporation is in Ontario. 1966, c. 142, s. 103.

Special form of proxy

105. Where section 102 or 103 is applicable to a solicitation of proxies,

(*a*) the form of proxy sent to a shareholder by a person or company soliciting proxies,

(i) shall indicate in bold-face type whether or not the proxy is solicited by or on behalf of the management of the corporation, and

(ii) shall provide a specifically designated blank space for dating the form of proxy;

(*b*) the form of proxy shall provide means whereby the person or company whose proxy is solicited is afforded an opportunity to specify that the shares registered in his name shall be voted by the nominee in favour of or against, in accordance with the choice of such person or company, each matter or group of related matters identified therein or in the information circular as intended to be acted upon, other than the election of directors and the appointment of auditors, provided

that a proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by such means if the form of proxy or the information circular states in bold-face type how it is intended to vote the shares represented by the proxy in each such case;

(*c*) a proxy may confer discretionary authority with respect to,

(i) amendments or variations to matters identified in the notice of meeting, or

(ii) other matters which may properly come before the meeting,

provided that,

(iii) the person or company by whom or on whose behalf the solicitation is made is not aware a reasonable time prior to the time the solicitation is made that any such amendments, variations or other matters are to be presented for action at the meeting, and

(iv) a specific statement is made in the information circular or in the form of proxy that the proxy is conferring such discretionary authority;

(*d*) no proxy shall confer authority,

(i) to vote for the election of any person as a director of the corporation unless a *bona fide* proposed nominee for such election is named in the information circular, or

(ii) to vote at any meeting other than the meeting specified in the notice of meeting or any adjournment thereof;

(*e*) the information circular or form of proxy shall state that the shares represented by the proxy will be voted and that, where the person or company whose proxy is solicited specifies a choice with respect to any matter to be acted upon pursuant to clause *b* the shares shall, subject to section 106, be voted in accordance with the specifications so made;

(*f*) an information circular or form of proxy shall indicate in bold-face type that the shareholder has the right to appoint a person to represent him at the meeting other than the person, if any, designated in the form of proxy and shall contain instructions as to the manner in which the shareholder may exercise such right; and

(*g*) if the form of proxy contains a designation of a named person as nominee, means shall be provided whereby the shareholder may designate in a form of proxy some other person as his nominee. 1966, c. 142, s. 104.

106. If the aggregate number of shares represented at a meeting by proxies required to be voted for or against a particular matter or group of matters carries, to the knowledge of the chairman of the meeting, less than 5 per cent of the voting rights attached to the shares entitled to vote and represented at the meeting, the chairman of the meeting has the right not to conduct a vote by way of ballot on any such matter or group of matters unless a poll is demanded at the meeting or required by the laws of the jurisdiction of incorporation of the corporation. 1966, c. 142, s. 105. Where vote by ballot not required

107.—(1) The Commission may in its discretion direct the Director to refuse to issue a receipt for a prospectus until such time as the company proposing to distribute equity shares to be offered by the prospectus delivers or causes to be delivered to the Commission undertakings satisfactory to the Commission in which the company and such of its directors and officers as the Commission may designate undertake to comply with this Part or such of the provisions thereof as the Commission may specify. 1966, c. 142, s. 106 (1); 1968, c. 123, s. 26 (1). Undertakings

(2) The Commission may in its discretion, if satisfied that an undertaking given under subsection 1 has not been complied with, direct the Director either to refuse to issue a receipt for a prospectus relating to securities of the corporation that previously delivered an undertaking to the Commission or to refuse to issue such receipt unless the corporation and such of its directors and officers as the Commission may designate have agreed to comply with such terms and conditions relating to proxies and proxy solicitation as may be imposed by the Commission. 1966, c. 142, s. 106 (2); 1968, c. 123, s. 26 (2). Refusal of receipt

108. The Lieutenant Governor in Council may make such regulations respecting the form and content of an information circular as he considers necessary or appropriate in the public interest. 1966, c. 142, s. 107. Regulations

PART XI

INSIDER TRADING

109.—(1) In this Part, Interpretation

(a) "capital security" means any share of any class of shares of a company or any bond, debenture, note or other obligation of a company, whether secured or unsecured;

(b) "corporation" has the same meaning as in Part X;

(c) "insider" or "insider of a corporation" means,

(i) any director or senior officer of a corporation,

(ii) any person or company who beneficially owns, directly or indirectly, equity shares of a corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding, provided that in computing the percentage of voting rights attached to equity shares owned by an underwriter there shall be excluded any equity shares that have been acquired by him as underwriter in the course of distribution to the public of such shares, but such exclusion ceases to have effect on completion or cessation of the distribution to the public by him, or

(iii) any person or company who exercises control or direction over the equity shares of a corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding. 1966, c. 142, s. 108 (1); 1968, c. 123, s. 27.

Idem (2) For the purposes of this Part,

(*a*) every director or senior officer of a company that is itself an insider of a corporation shall be deemed to be an insider of such corporation; and

(*b*) the acquisition or disposition by an insider of a put, call or other transferable option with respect to a capital security shall be deemed a change in the beneficial ownership of the capital security to which such transferable option relates. 1966, c. 142, s. 108 (2).

Report **110.**—(1) A person or company that becomes an insider of a corporation shall, within ten days after the end of the month in which he becomes an insider, file with the Commission a report as of the day on which he became an insider, of his direct or indirect beneficial ownership of or control or direction over capital securities of the corporation.

Idem (2) If a person or company that is an insider of a corporation, but has no direct or indirect beneficial ownership of or control or direction over capital securities of the corporation, acquires direct or indirect beneficial ownership of or control or direction over any such securities, he shall, within ten days after the end of the month in which he acquired such direct or indirect beneficial ownership or such control or direction, file with the Commission a report, as of the date of such acquisition, of his direct or indirect beneficial ownership of or control or direction over capital securities of the corporation. 1968, c. 123, s. 28 (2), *part*.

Report of subsequent changes (3) A person or company that has filed or is required to file a report under this section or any predecessor thereof and whose direct or indirect beneficial ownership of or control or direction

over capital securities of the corporation changes from that shown or required to be shown in such report or in the latest report filed by him under this section or any predecessor thereof shall, within ten days following the end of the month in which such change takes place, if he was an insider of the corporation at any time during such month, file with the Commission a report of his direct or indirect beneficial ownership of or his control or direction over capital securities of the corporation at the end of such month and the change or changes therein that occurred during the month giving such details of each transaction as may be required by the regulations. 1968, c. 123, s. 28 (2) *part, amended.*

111.—(1) All reports filed with the Commission under section 110 or any predecessor thereof shall be open to public inspection at the offices of the Commission during normal business hours of the Commission, and any person may make extracts from such reports. 1966, c. 142, s. 110 (1), *amended.* Reports may be inspected

(2) The Commission shall summarize in or as part of a monthly periodical for distribution to the public on payment of a reasonable fee therefor the information contained in the reports so filed. 1966, c. 142, s. 110 (2). Publication of information contained in reports

112.—(1) Every person or company that is required to file a report under section 110 and fails so to do is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000, and, where a company fails to so report, every director or officer of such company who authorized, permitted or acquiesced in such failure is also guilty of an offence and on summary conviction is liable to a fine of not more than $1,000. Offence

(2) Every person or company that files a report under subsection 1 or 2 of section 110 which is false or misleading by reason of the misstatement or omission of any material fact is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000, and, where a company files a false or misleading report, every director or officer of such company who authorized, permitted or acquiesced in the filing of such false or misleading report is also guilty of an offence and on summary conviction is liable to a fine of not more than $1,000. Idem

(3) No person is guilty of an offence under subsection 2 if he did not know and in the exercise of reasonable diligence could not have known that the report was false or misleading by reason of the misstatement or omission of a material fact. Saving

(4) No prosecution shall be brought under subsection 1 or 2 without the consent of the Commission. 1966, c. 142, s. 111, *amended.* Consent to prosecute

113.—(1) Every insider of a corporation or associate or affiliate of such insider, who, in connection with a transaction Liability of insiders

relating to the capital securities of the corporation, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of such securities, is liable to compensate any person or company for any direct loss suffered by such person or company as a result of such transaction, unless such information was known or ought reasonably to have been known to such person or company at the time of such transaction, and is also accountable to the corporation for any direct benefit or advantage received or receivable by such insider, associate or affiliate, as the case may be, as a result of such transaction.

Limitation period

(2) An action to enforce any right created by subsection 1 may be commenced only within two years after the date of completion of the transaction that gave rise to the cause of action. 1966, c. 142, s. 113.

Order to commence action

114.—(1) Upon application by any person or company that was at the time of a transaction referred to in subsection 1 of section 113 or is at the time of the application an owner of capital securities of the corporation, a judge of the High Court designated by the Chief Justice of the High Court may, if satisfied that,

(*a*) such person or company has reasonable grounds for believing that the corporation has a cause of action under section 113; and

(*b*) either,

(i) the corporation has refused or failed to commence an action under section 113 within sixty days after receipt of a written request from such person or company so to do; or

(ii) the corporation has failed to prosecute diligently an action commenced by it under section 113,

make an order, upon such terms as to security for costs and otherwise as to the judge seems fit, requiring the Commission to commence or continue an action in the name of and on behalf of the corporation to enforce the liability created by section 113.

Notice to corporation and O.S.C.

(2) The corporation and the Commission shall be given notice of any application under subsection 1 and has the right to appear and be heard thereon.

Order to require corporation to co-operate

(3) Every order made under subsection 1 shall provide that the corporation shall co-operate fully with the Commission in the institution and prosecution of such action and shall make available to the Commission all books, records, documents and other material or information known to the corporation or reasonably ascertainable by the corporation relevant to such action.

Appeal

(4) An appeal lies to the Court of Appeal from an order made under subsection 1. 1966, c. 142, s. 114.

115. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) prescribing the form and content of the reports required to be filed under section 110;

(*b*) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Part. 1966, c. 142, s. 115.

116.—(1) Upon the application of an interested person or company, the Commission may, Conflict

(*a*) if a requirement of section 110 conflicts with a requirement of the laws of the jurisdiction in which a corporation is incorporated; or

(*b*) if the laws of the jurisdiction to which the corporation is subject contain substantially similar requirements as contained in section 110; or

(*c*) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as seem to the Commission just and expedient exempting, in whole or in part, a person or company from the requirements of section 110.

(2) An insider of a corporation who is subject to this Part by virtue only of subclause i of clause *a* of section 101 ceases to be subject to this Part if the corporation does not have owners of its equity shares whose latest address as shown on the books of the corporation is in Ontario. 1966, c. 142, s. 116. When insider ceases to be subject to this Part

117.—(1) The Commission may in its discretion direct the Director to refuse to issue a receipt for a prospectus until such time as the company proposing to distribute equity shares to be offered by the prospectus delivers or causes to be delivered to the Commission undertakings satisfactory to the Commission in which the company undertakes to cause its present and future directors and senior officers to comply with section 110 and in which the directors and senior officers of the company then in office undertake to comply with section 110. 1966, c. 142, s. 117 (1); 1968, c. 123, s. 30 (1). Undertakings

(2) The Commission may in its discretion, if satisfied that an undertaking given under subsection 1 has not been complied with, direct the Director either to refuse to issue a receipt for a prospectus relating to securities of a corporation which previously delivered an undertaking to the Commission or to refuse to issue such receipt unless the corporation, its directors and senior officers have agreed to comply with such terms and conditions relating to insider trading as may be imposed by the Commission. 1966, c. 142, s. 117 (2); 1968, c. 123, s. 30 (2). Refusal of receipt

PART XII

FINANCIAL DISCLOSURE

Interpretation

118.—(1) In this Part,

(*a*) "auditor", used in relation to a corporation, includes the auditor of the corporation and any other independent public accountant;

(*b*) "corporation" means a company,

(i) that has issued equity shares that, on or after the 1st day of May, 1967, are distributed in the course of a primary distribution to the public in respect of which a prospectus is filed with the Commission and a receipt therefor obtained, or

(ii) any of whose shares are listed and posted for trading on any stock exchange in Ontario recognized by the Commission,

other than,

(iii) a company incorporated by or under a general or special Act of the Legislature or a company to which Part II of *The Corporations Act* or *The Business Corporations Act* applies,

R.S.O. 1970, cc. 89, 53

1966-67, c. 87 (Can.)

(iv) a bank to which the *Bank Act* (Canada) applies, or

R.S.O. 1970, cc. 254, 224

(v) a loan corporation or trust company registered under *The Loan and Trust Corporations Act* or a company undertaking and transacting life insurance licensed under *The Insurance Act*. 1966, c. 142, s. 118.

Application of Part to persons

(2) This Part applies *mutatis mutandis* to any person who has issued securities that, on or after the 1st day of May, 1967, are distributed in the course of primary distribution to the public in respect of which a prospectus is filed with the Commission and a receipt therefor obtained in the same manner as to a corporation. 1968, c. 123, s. 31, *amended*.

Auditor's examination

119.—(1) The auditor of a corporation shall make such examination as will enable him to make the reports referred to in subsections 2, 3 and 4.

Auditor's report

(2) The financial statements referred to in section 120 shall be accompanied by a report of the auditor of the corporation who shall state in his report whether in his opinion the financial statements, other than the part thereof that relates to the period referred to in clause *b* of subsection 1 of section 120, referred to therein present fairly the financial position of the corporation and the results of its operations for the period under review in accordance with generally accepted accounting principles applied

on a basis consistent with that of the preceding period. 1966, c. 142, s. 119 (1, 2).

Idem

(3) If the financial statements contain a statement of source and application of funds or a statement of changes in net assets, the auditor shall include in his report a statement whether in his opinion, in effect, the statement of source and application of funds or the statement of changes in net assets presents fairly the information shown therein. 1968, c. 123, s. 32.

Idem

(4) The auditor in his report shall make such statements as he considers necessary,

(*a*) if the corporation's financial statements are not in agreement with its accounting records;

(*b*) if the corporation's financial statements are not in accordance with the requirements of this Act;

(*c*) if he has not received all the information and explanations that he has required; or

(*d*) if proper accounting records have not been kept, so far as appears from his examination. 1966, c. 142, s. 119 (4).

Comparative financial statement

120.—(1) A corporation shall file with the Commission, within 170 days of the date to which it is made up, comparative financial statements relating separately to,

(*a*) the period that commenced on the date of incorporation and ended as of the close of its first financial year or, if the corporation has completed a financial year, the latest completed financial year, as the case may be; and

(*b*) the period covered by the financial year next preceding such latest completed financial year, if any,

made up of,

(*c*) a statement of profit and loss for each period;

(*d*) a statement of surplus for each period;

(*e*) subject to subsection 5, a statement of source and application of funds for each period; and

(*f*) a balance sheet as at the end of each period. 1966, c. 142, s. 120 (1); 1968, c. 123, s. 33 (1).

Designation of statements

(2) It is not necessary to designate the financial statements referred to in subsection 1 as the statement of profit and loss, statement of surplus, statement of source and application of funds and balance sheet.

Omission of comparative statements

(3) Notwithstanding subsection 1, the financial statements referred to therein may relate only to the latest completed financial year if the reason for the omission of the statements in

respect of the financial year next preceding such latest completed financial year is set out in the financial statements or by way of note thereto.

Omission of source and application of funds statement

(4) Notwithstanding clause *e* of subsection 1, the statement of source and application of funds may be omitted if the reason for such omission is set out in the financial statements or by way of note thereto. 1966, c. 142, s. 120 (2-4).

Mutual funds or investment companies

(5) A mutual fund company or an investment company, as defined in the regulations, shall file a statement of changes in net assets for each period, in lieu of a statement of source and application of funds as required by clause *e* of subsection 1. 1968, c. 123, s. 33 (2).

Content of statement of profit and loss

121.—(1) The statement of profit and loss referred to in clause *c* of subsection 1 of section 120 shall be drawn up so as to present fairly the results of the operations of the corporation for the period covered by the statement and so as to distinguish severally at least,

(*a*) sales or gross operating revenue;

(*b*) the operating profit or loss before including or providing for other items of income or expense that are required to be shown separately;

(*c*) income from investments in subsidiaries whose financial statements are not consolidated with those of the company;

(*d*) income from investments in affiliated companies other than subsidiaries;

(*e*) income from other investments;

(*f*) non-recurring profits and losses of significant amount including profits or losses on the disposal of capital assets and other items of a special nature to the extent that they are not shown separately in the statement of earned surplus;

(*g*) provision for depreciation or obsolescence or depletion;

(*h*) amounts written off for good will or amortization of any other intangible assets to the extent that they are not shown separately in the statement of earned surplus;

(*i*) interest on indebtedness initially incurred for a term of more than one year, including amortization of debt discount or premium and expense; and

(*j*) taxes on income imposed by any taxing authority,

and shall show the net profit or loss for the financial period.

(2) Notwithstanding subsection 1, items of the natures described in clauses *g* and *h* of subsection 1 may be shown by way of note to the statement of profit and loss. Idem

(3) A corporation may apply to the Commission for an order permitting sales or gross operating revenue referred to in clause *a* of subsection 1 or subclause i of clause *b* of subsection 1 of section 130 to be omitted from the statement of profit and loss or the interim financial statement, as the case may be, and the Commission may, on such terms and conditions as it may impose, permit such omission where it is satisfied that in the circumstances the disclosure of such information would be unduly detrimental to the interests of the corporation. 1966, c. 142, s. 121. Order for omission of sales or gross operating revenue

(4) The statement of profit and loss of a mutual fund company or an investment company, as defined in the regulations, shall also distinguish the average net investment income per share and an item of this nature may be shown by way of note to the statement of profit and loss. 1968, c. 123, s. 34. Mutual fund or investment companies

122.—(1) The statement of surplus shall be drawn up so as to present fairly the transactions reflected in the statement and shall show separately a statement of contributed surplus and a statement of earned surplus. Content of statement of surplus

(2) The statement of contributed surplus shall be drawn up so as to include and distinguish the following items: Statement of contributed surplus

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period including,
   (*a*) the amount of surplus arising from the issue of shares or the reorganization of the corporation's issued capital, including *inter alia*,
      (i) the amount of premiums received on the issue of shares at a premium, and
      (ii) the amount of surplus realized on the purchase for cancellation of shares; and
   (*b*) donations of cash or other property by shareholders.
3. The balance of such surplus at the end of the financial period.

(3) The statement of earned surplus shall be drawn up so as to distinguish at least the following items: Statement of earned surplus

1. The balance of such surplus at the end of the preceding financial period.

2. The additions to and deductions from such surplus during the financial period and, without restricting the generality of the foregoing, at least the following:
   i. The amount of the net profit or loss for the financial period.
   ii. The amount of dividends declared on each class of shares.
   iii. The amount transferred to or from reserves.
3. The balance of such surplus at the end of the financial period. 1966, c. 142, s. 122.

Content of statement of source and application of funds

123. The statement of source and application of funds referred to in clause *e* of subsection 1 of section 120 and clause *a* of subsection 1 of section 130 shall be drawn up so as to present fairly the information shown therein for the period and shall show separately at least,

(*a*) funds derived from,
   (i) current operations,
   (ii) sale of non-current assets, segregating investments, fixed assets and intangible assets,
   (iii) issue of securities maturing more than one year after issue, and
   (iv) issue of shares; and

(*b*) funds applied to,
   (i) purchase of non-current assets, segregating investments, fixed assets and intangible assets,
   (ii) redemption or other retirement of securities or repayment of other indebtedness maturing more than one year after issue,
   (iii) redemption or other retirement of shares, and
   (iv) payment of dividends. 1966, c. 142, s. 123.

Statement of changes in net assets

124.—(1) The statement of changes in net assets referred to in subsection 5 of section 120 and subsection 2 of section 130 shall be drawn up so as to present fairly the information shown therein for the period and shall show separately at least,

(*a*) net assets at beginning of the period;

(*b*) net investment income or loss;

(*c*) aggregate proceeds on sale of portfolio securities;

(*d*) aggregate cost of portfolio securities owned at beginning of the period;

(*e*) aggregate cost of purchases of portfolio securities;

(*f*) aggregate cost of portfolio securities owned at end of the period;

(*g*) aggregate cost of portfolio securities sold;

(*h*) realized profit or loss on securities sold;

(*i*) distributions, showing separately the amount out of net investment income and out of realized profits;

(*j*) proceeds from shares issued;

(*k*) cost of shares redeemed;

(*l*) net increase or decrease in unrealized appreciation or depreciation of portfolio securities;

(*m*) net assets at end of the period;

(*n*) net asset value per share at end of the period;

(*o*) net asset value per share at beginning of the period;

(*p*) distribution per share out of net investment income;

(*q*) distribution per share out of realized profits.

Note to statement

(2) Notwithstanding subsection 1, items of the natures described in clauses *n*, *o*, *p* and *q* of subsection 1 may be shown by way of note to the statement of changes in net assets. 1968, c. 123, s. 35.

Content of balance sheet

125.—(1) The balance sheet referred to in clause *f* of subsection 1 of section 120 shall be drawn up so as to present fairly the financial position of the corporation as at the date to which it is made up and so as to distinguish severally at least the following:

1. Cash.
2. Debts owing to the corporation from its directors, officers or shareholders, except debts of reasonable amount arising in the ordinary course of its business that are not overdue, having regard to its ordinary terms of credit.
3. Debts owing to the corporation, whether on account of a loan or otherwise, from subsidiaries whose financial statements are not consolidated with those of the corporation.
4. Debts owing to the corporation, whether on account of a loan or otherwise, from affiliated companies other than subsidiaries.
5. Other debts owing to the corporation, segregating those that arose otherwise than in the ordinary course of its business.
6. Inventory, stating the basis of valuation.
7. Shares, bonds, debentures and other investments owned by the corporation, except those referred to in items 8 and 9, stating their nature and the basis of their

valuation and showing separately those that are marketable with a notation of their market value.

8. Shares or other securities of subsidiaries whose financial statements are not consolidated with those of the corporation, stating the basis of valuation.

9. Shares or other securities of affiliated companies other than subsidiaries, stating the basis of valuation.

10. Lands, buildings, and plant and equipment, stating the basis of valuation, whether cost or otherwise, and, if valued on the basis of an appraisal, the date of appraisal, the name of the appraiser, the basis of the appraisal value and, if such appraisal took place within the five years preceding the date to which the balance sheet is made up, the disposition in the accounts of the corporation of any amounts added to or deducted from such assets on appraisal and also the amount or amounts accumulated in respect of depreciation, obsolescence and depletion.

11. There shall be stated under separate headings, in so far as they are not written off,
    (*a*) expenditures on account of future business;
    (*b*) any expense incurred in connection with any issue of shares;
    (*c*) any expense incurred in connection with any issue of other securities, including any discount thereon; and
    (*d*) any one or more of the following: goodwill, franchises, patents, copyrights, trade marks and other intangible assets and the amount, if any, by which the value of any such assets has been written up after the 1st day of May, 1967.

12. The aggregate amount of outstanding loans to provide, in accordance with a scheme for the time being in force, money for the purchase by trustees of fully paid shares of the corporation to be held by or for the benefit of *bona fide* employees of the corporation, whether or not they are shareholders or directors, and the aggregate amount of outstanding loans to *bona fide* employees of the corporation, other than directors, made with a view to enabling them to purchase fully paid shares of the corporation to be held by them by way of beneficial ownership.

13. Bank loans and overdrafts.

14. Debts owing by the corporation on loans from its directors, officers or shareholders.

15. Debts owing by the corporation to subsidiaries whose financial statements are not consolidated with those of the corporation, whether on account of a loan or otherwise.

16. Debts owing by the corporation to affiliated companies other than subsidiaries, whether on account of a loan or otherwise.

17. Other debts owing by the corporation, segregating those that arose otherwise than in the ordinary course of its business.

18. Liability for taxes, including the estimated liability for taxes in respect of the income of the period covered by the statement of profit and loss.

19. Dividends declared but not paid.

20. Deferred income.

21. Securities, other than shares, issued by the corporation, stating the interest rate, the maturity date, the amount outstanding and the existence of sinking fund, redemption requirements and conversion rights, if any.

22. The authorized capital, giving the number of each class of shares and a brief description of each such class, and indicating therein any class of shares that is redeemable and the redemption price thereof.

23. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing,
    (*a*) the number of shares of each class issued since the date of the latest balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration; and
    (*b*) where any shares have not been fully paid,
        (i) the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
        (ii) the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.

24. Contributed surplus.

25. Earned surplus.

26. Reserves, showing the amounts added thereto and the amounts deducted therefrom during the financial period. 1966, c. 142, s. 124 (1), *amended*.

Idem

(2) Explanatory information or particulars of any item referred to in subsection 1 may be shown by way of note to the balance sheet. 1966, c. 142, s. 124 (2).

Change in accounting principle or practice

126.—(1) There shall be stated by way of note to the financial statements particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the profit or loss for the period.

Idem

(2) For the purpose of subsection 1, a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period, even though it did not have a material effect upon the profit or loss for the period.

Notes to financial statements

(3) Where applicable, the following matters shall be referred to in the financial statements or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statements are expressed.

2. Foreign currency restrictions that affect the assets of the corporation.

3. Contractual obligations that will require abnormal expenditures in relation to the corporation's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.

4. Material contractual obligations in respect of long-term leases, including, in the year in which the transaction was effected, the principal details of any sale and lease transaction.

5. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.

6. Any liability secured otherwise than by operation of law on any asset of the corporation, stating the liability so secured.

7. Any default of the corporation in principal, interest, sinking fund or redemption provisions with respect to any issue of its securities, other than shares, or credit agreements.

8. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.

9. Where a corporation has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.

10. The aggregate direct remuneration paid or payable by the corporation and its subsidiaries, whose financial statements are consolidated with those of the corporation, to the directors and the senior officers of the corporation, and as a separate amount the aggregate direct remuneration paid or payable to such directors and senior officers by the subsidiaries of the corporation whose financial statements are not consolidated with those of the corporation.

11. Where the corporation is a holding company, the aggregate of any shares in and the aggregate of any securities, other than shares, of such corporation held by subsidiary companies whose financial statements are not consolidated with that of the holding company.

12. The amount of any loans by the corporation or by a subsidiary company, otherwise than in the ordinary course of business, during the corporation's financial period, to the directors or officers of the corporation.

13. Any restriction by the instrument of incorporation or any by-law, article or other like instrument or any amendments thereto or by contract on the payment of dividends that is significant in the light of the corporation's financial position.

14. Any event or transaction, other than one in the normal course of business operations, between the date to which the financial statements are made up and the date of the auditor's report thereon that materially affects the financial statements.

15. The amount of any obligation for pension benefits arising from service prior to the date of the balance sheet, whether or not such obligation has been provided for in the accounts of the corporation, the manner in which the corporation proposes to satisfy such obligation and the basis on which it has charged or proposes to charge the related costs against operations.

Idem (4) A note to the financial statements is a part of such financial statements. 1966, c. 142, s. 125.

Idem **127.** Notwithstanding sections 121 to 126, it is not necessary to state in the financial statements any matter that in all the circumstances is of relative insignificance. 1966, c. 142, s. 126.

Consolidated financial statements

128.—(1) A corporation, in this section referred to as "the holding company", may include in the financial statements referred to in section 120 the assets and liabilities and income and expense of any one or more of its subsidiaries, making due provision for minority interests, if any, and indicating in such financial statements that they are presented in consolidated form.

Idem

(2) Where the assets and liabilities and income and expense of any one or more subsidiaries of the holding company are not so included in the financial statements of the holding company,

(*a*) the financial statements of the holding company shall include a statement setting forth,

(i) the reason why the assets and liabilities and income and expense of such subsidiary or subsidiaries are not included in the financial statements of the holding company,

(ii) if there is only one such subsidiary, the amount of the holding company's proportion of the profit or loss of such subsidiary for the financial period coinciding with or ending in the financial period of the holding company, or, if there is more than one such subsidiary, the amount of the holding company's proportion of the aggregate profits less losses, or losses less profits, of all such subsidiaries for the respective financial periods coinciding with or ending in the financial period of the holding company,

(iii) the amount included as income from such subsidiary or subsidiaries in the statement of profit and loss of the holding company and the amount included therein as a provision for the loss or losses of such subsidiary or subsidiaries,

(iv) if there is only one such subsidiary, the amount of the holding company's proportion of the undistributed profits of such subsidiary earned since the acquisition of the shares of such subsidiary by the holding company to the extent that such amount has not been taken into the accounts of the holding company, or, if there is more than one such subsidiary, the amount of the holding company's proportion of the aggregate undistributed profits of all such subsidiaries earned since the acquisition of their shares by the holding company less its proportion of the losses, if any, suffered by any such subsidiary since the acquisition of its shares to the extent that such amount has not been taken into the accounts of the holding company,

(v) any qualifications contained in the report of the auditor of any such subsidiary on its financial statements for the financial period ending as afore-

said, and any note or reference contained in the financial statements to call attention to a matter that, apart from the note or reference, would properly have been referred to in such a qualification, in so far as the matter that is the subject of the qualification or note is not provided for by the holding company's financial statements and is material from the point of view of its shareholders;

(*b*) if for any reason the directors of the holding company are unable to obtain such information as is necessary for the preparation of the statement that is to be included in the financial statements of the holding company, the directors who sign the financial statements of the holding company shall so report in writing, and their report shall be included in the financial statements of the holding company in lieu of such statement; and

(*c*) if, in the opinion of the auditor of the holding company, adequate provision has not been made in the financial statements of the holding company for the holding company's proportion,

(i) where there is only one such subsidiary, of the loss suffered by such subsidiary since the acquisition of its shares by the holding company, or

(ii) where there is more than one such subsidiary, of the aggregate losses suffered by such subsidiaries since the acquisition of their shares by the holding company in excess of its proportion of the undistributed profits, if any, earned by any of such subsidiaries since such acquisition,

the auditor shall state in his report the additional amount that in his opinion is necessary to make full provision therefor. 1966, c. 142, s. 127.

Reserves

129. In a financial statement, the term "reserve" shall be used to describe only,

(*a*) amounts appropriated from earned surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;

(*b*) amounts appropriated from earned surplus pursuant to the instrument of incorporation or a by-law, article or other like instrument or any amendments thereto of the corporation for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and

(*c*) amounts appropriated from earned surplus in accordance with the terms of a contract and that can be restored to the earned surplus when the conditions of the contract are fulfilled. 1966, c. 142, s. 128.

Comparative interim financial statements

130.—(1) A corporation shall file with the Commission within sixty days of the date to which it is made up a copy of a comparative interim financial statement for the six-month period that commenced on the date of incorporation or, if the corporation has completed a financial year, for the six-month period that commenced immediately after the end of the last completed financial year and for the comparable six-month period, if any, in the twelve months immediately preceding the commencement of the six-month period in respect of which such interim financial statement is issued, made up of,

(*a*) a statement of source and application of funds for each period that complies with section 123; and

(*b*) sufficient relevant financial information in summary form to present fairly the results of the operations of the corporation for each period, including,

(i) a statement of sales or gross operating revenue,

(ii) extraordinary items of income or expense,

(iii) net income before taxes on income imposed by any taxing authority,

(iv) taxes on income imposed by any taxing authority, and

(v) net profit or loss. 1966, c. 142, s. 129 (1).

Mutual fund and investment companies

(2) A mutual fund company or an investment company, as defined in the regulations, shall file a statement of changes in net assets for each period that complies with section 124 in lieu of a statement of source and application of funds as required by clause *a* of subsection 1. 1968, c. 123, s. 36.

Idem

(3) The interim financial statement required by subsection 1 may omit either or both of,

(*a*) the information relating to the comparable period;

(*b*) the statement of source and application of funds,

if the reason for the omission or omissions, as the case may be, is set out in the interim financial statement or by way of note thereto.

Note to interim financial statement

(4) There shall be stated by way of note to the interim financial statement required by subsection 1 the particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of such statement with the statement for the preceding period or with the interim financial

statement for a part of the preceding period, and the effect, if material, of any such change upon the profit or loss for the period covered by the interim financial statement.

(5) For the purpose of subsection 4, a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period or part thereof, even though it did not have a material effect upon the profit or loss for the period covered by the interim financial statement. Idem

(6) The interim financial statement required by subsection 1 shall be sent, within sixty days of the date to which it is made up, by prepaid mail to each shareholder whose latest address as shown on the books of the corporation is in Ontario. 1966, c. 142, s. 129 (2-5). Time of mailing

131.—(1) A corporation may comply with this Part by concurrently filing with the Commission, Filing with Commission

(*a*) the financial statements and the auditor's reports thereon and the interim financial statements, if any, that are sent or otherwise made available by the corporation to its shareholders; and

(*b*) such additional financial information, if any, as is required, when combined with the financial information contained in the financial statements and interim financial statements referred to in clause *a*, to substantially comply with sections 120 to 130.

(2) Additional financial information filed under clause *b* of subsection 1 shall be accompanied by a report of the auditor of the corporation who shall state in his report whether, in his opinion, such additional financial information, together with the financial statements filed under clause *a* of subsection 1 relating to the same financial period, provides the information required by subsection 1. Idem

(3) Notwithstanding subsection 2, the report of the auditor of the corporation need not relate to the financial year referred to in clause *b* of subsection 1 of section 120 or to any interim financial statement or information. Idem

(4) Where a corporation complies with this Part by complying with subsection 1, the financial statements and the auditor's reports thereon, the interim financial statements and the additional financial information referred to in clauses *a* and *b* of subsection 1 shall be filed with the Commission, Idem

(*a*) within five days after such financial statements are mailed by the corporation to its shareholders; or

(*b*) within 170 days of the date to which such financial statements are made up or, in the case of interim

financial statements, within sixty days of the date to which the interim financial statements are made up,

whichever is earlier. 1966, c. 142, s. 130.

Conflict

132.—(1) Upon the application of a corporation, the Commission may,

(*a*) if a requirement of this Part conflicts with a requirement of the laws of the jurisdiction in which a corporation is incorporated; or

(*b*) if the laws of the jurisdiction to which the corporation is subject contain substantially similar requirements as contained in this Part; or

(*c*) if otherwise satisfied in the circumstances of the particular case that there is adequate justification for so doing,

make an order on such terms and conditions as seem to the Commission just and expedient exempting, in whole or in part, the corporation from the requirements of this Part.

When this Part ceases to apply

(2) A corporation that is subject to this Part by virtue only of subclause i of clause *b* of section 118 ceases to be subject to this Part if the corporation does not have owners of its equity shares whose latest address as shown on the books of the corporation is in Ontario. 1966, c. 142, s. 131.

Undertakings

133.—(1) The Commission may in its discretion direct the Director to refuse to issue a receipt for a prospectus until such time as the company proposing to distribute the equity shares to be offered by the prospectus delivers or causes to be delivered to the Commission undertakings satisfactory to the Commission in which the company undertakes to comply with this Part. 1966, c. 142, s. 132 (1); 1968, c. 123, s. 37 (1).

Refusal of receipt

(2) The Commission may in its discretion, if satisfied that an undertaking given under subsection 1 has not been complied with, direct the Director either to refuse to issue a receipt for a prospectus relating to securities of the corporation that previously delivered an undertaking to the Commission or to refuse to issue such receipt unless the corporation has agreed to comply with such terms and conditions relating to financial disclosure as may be imposed by the Commission. 1966, c. 142, s. 132 (2); 1968, c. 123, s. 37 (2).

Material to be filed by certain companies R.S.O. 1970, cc. 89, 53

134.—(1) A company that is subject to sections 97 to 111 of *The Corporations Act* or sections 167 to 185 of *The Business Corporations Act* and that is a corporation within the meaning of subclause i or ii of clause *b* of section 118 shall file with the Commission its financial statements, auditor's reports thereon and interim financial statements that are required to be mailed by

the company to its shareholders. 1966, c. 142, s. 133 (1), *amended*.

(2) The financial statements, auditor's reports thereon and interim financial statements referred to in subsection 1 shall be filed with the Commission within five days after the date such statements are mailed or required to be mailed by the company to its shareholders, whichever is earlier. 1966, c. 142, s. 133 (2). Time of filing

135. The financial statements, auditor's reports thereon, interim financial statements and additional financial information filed with the Commission under this Part shall be open to public inspection at the offices of the Commission during normal business hours of the Commission. 1966, c. 142, s. 134. Inspection of filed material

136. A corporation that fails to comply with any provision of this Part is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000, and every director or officer of the corporation who authorized, permitted or acquiesced in any such failure is guilty of an offence and on summary conviction is liable to a fine of not more than $1.000. 1966, c. 142, s. 135. Offence

PART XIII

OFFENCES AND PENALTIES

137.—(1) Every person or company that, Offences, general

(*a*) makes a statement in any material, evidence or information submitted or given under this Act or the regulations to the Commission, its representative, the Director or to any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading;

(*b*) makes a statement in any application, report, prospectus, return, financial statement or other document, required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading;

(*c*) contravenes this Act or the regulations; or

(*d*) fails to observe or comply with any order, direction or other requirement made under this Act or the regulations,

is, except where such conduct also constitutes an offence under Parts IX, X, XI and XII, guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both. 1966, c. 142, s. 136 (1); 1968, c. 123, s. 38.

Defence

(2) No person or company is guilty of an offence under clause *a* or *b* of subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Directors and officers

(3) Where a company is guilty of an offence under subsection 1, every director or officer of such company who authorized, permitted or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Companies, maximum fine

(4) Notwithstanding subsection 1, where a company is convicted thereunder, the maximum fine that may be imposed is $25,000. 1966, c. 142, s. 136 (2-4).

Consent of Minister

138.—(1) No proceedings under section 100 or 137 shall be instituted except with the consent or under the direction of the Minister. 1966, c. 142, s. 137 (1).

Time limitation

(2) No proceedings in a court under this Act shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission. 1966, c. 142, s. 137 (2); 1968-69, c. 116, s. 8 (1).

Idem

(3) No proceedings, other than in a court, under this Act shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Commission. 1968-69, c. 116, s. 8 (2).

Information may charge more than one offence

139. An information in respect of any contravention of this Act may be for one or more offences, and no information, summons, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. 1966, c. 142, s. 138, *amended*.

PART XIV

GENERAL PROVISIONS

Stock exchanges

140.—(1) No person or company shall carry on business as a stock exchange in Ontario unless such stock exchange is recognized in writing as such by the Commission.

Idem, Commission's powers

(2) The Commission may, where it appears to it to be in the public interest, make any direction, order, determination or ruling,

(*a*) with respect to the manner in which any stock exchange in Ontario carries on business;

(*b*) with respect to any by-law, ruling, instruction or regulation of any such stock exchange;

(*c*) with respect to trading on or through the facilities of any such stock exchange or with respect to any security listed and posted for trading on any such stock exchange; or

(*d*) to ensure that companies whose securities are listed and posted for trading on any such stock exchange comply with this Act and the regulations. 1966, c. 142, s. 139.

Review of decisions of stock exchange

(3) Any person or company that feels aggrieved by any direction, order or decision made under any by-law, rule or regulation of a stock exchange in Ontario may apply to the Commission for a hearing and review thereof and section 28 applies to the hearing and review in the same manner as to the hearing and review of a direction, decision, order or ruling of the Director. 1968-69, c. 116, s. 9.

Idem, records and particulars of transactions

141. Every stock exchange in Ontario shall keep a record showing the time at which each transaction on such exchange took place and shall supply to any customer of any member of such exchange, upon production of a written confirmation of any transaction with such member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the confirmation. 1966, c. 142, s. 140.

Liability of directors, etc.

142. Where a receipt for a prospectus has been issued by the Director, notwithstanding that such receipt is thereafter revoked, every purchaser of the securities to which the prospectus relates shall be deemed to have relied upon the statements made in the prospectus whether the purchaser has received the prospectus or not, and, if a material false statement is contained in the prospectus, every person who, at the time of the issue of a receipt for the prospectus, is a director of a company issuing the securities or a person or company who signed the certificate required by section 52 is liable to pay compensation to all persons or companies who have purchased the securities for any loss or damage such persons or companies have sustained as a result of such purchase unless it is proved,

(*a*) that the prospectus was filed with the Commission without his knowledge or consent, and that, on becoming aware of its filing with the Commission, he forthwith gave reasonable public notice that it was so filed;

(*b*) that, after the issue of a receipt for the prospectus and before the purchase of the securities by such purchaser, on becoming aware of any false statement therein, he

withdrew his consent thereto and gave reasonable public notice of such withdrawal and of the reason therefor;

(*c*) that, with respect to every false statement, he had reasonable grounds to believe and did believe that the statement was true;

(*d*) that he had no reasonable grounds to believe that an expert who made a statement in a prospectus or whose report or valuation was produced or fairly summarized therein was not competent to make such statement, valuation or report; or

(*e*) that, with respect to every false statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document. 1966, c. 142, s. 141; 1968, c. 123, s. 39.

Order for compliance

143.—(1) Where it appears to the Commission that any person or company has failed to comply with or is violating any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, the Commission may apply to a judge of the High Court designated by the Chief Justice of the High Court for an order directing such person or company to comply with such provision or for an order restraining such person or company from violating such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Court of Appeal from an order made under subsection 1. 1968, c. 123, s. 40, *part*.

Order suspending trading

144.—(1) The Commission may, where in its opinion such action is in the public interest, order, subject to such terms and conditions as it may impose, that trading shall cease in respect of such securities for such period as is specified in the order.

Temporary order

(2) No order shall be made under subsection 1 without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, which shall expire fifteen days from the date of the making thereof, but such order may be extended for such period as the Commission considers necessary where satisfactory information is not provided to the Commission within the fifteen-day period.

Notice of order

(3) The Commission may give notice of its intention to make an order or to hold a hearing under this section by publication in a newspaper of general circulation or in such other manner and to

such persons as the Commission thinks fit. 1968, c. 123, s. 40, *part*.

Actions and other proceedings

145.—(1) Except with the consent of the Minister, no action whatever and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy lies or shall be instituted,

(*a*) against any person, whether in his public or private capacity, or against any company in respect of any act or omission in connection with the administration or the carrying out of the provisions of this Act or the regulations where such person is a member of the Commission, a representative of the Commission or the Director, or where such person or company was proceeding under the written or oral direction or consent of any one of them or under an order of the Minister made under this Act; or

(*b*) against any exchange auditor, district association auditor or association auditor, employed under clause *b* of section 30, in respect of the performance of his duties as such. 1966, c. 142, s. 142 (1); 1968, c. 123, s. 41 (1).

Idem

(2) No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company in respect of any act or omission of the last-mentioned person or company done or omitted in compliance or intended compliance with,

(*a*) any requirement, order or direction under this Act of,

(i) the Commission or any member thereof,

(ii) the Director,

(iii) any person appointed by order of the Minister,

(iv) the Minister,

(v) any representative of the Minister, the Commission, the Director or of any person appointed by the Minister; or

(*b*) this Act and the regulations. 1966, c. 142, s. 142 (2); 1968, c. 123, s. 41 (2, 3).

Securities Commission Advisory Board

146.—(1) The Financial Disclosure Advisory Board is continued, and shall be composed of not more than five members who shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure, and the Lieutenant Governor in Council may designate one of the members to be chairman of the Advisory Board. 1966, c. 142, s. 143 (1), *amended*.

Meetings

(2) The Advisory Board shall meet at the call of the Commission.

Duties

(3) The Advisory Board shall, when requested by the Commission, consult with and advise the Commission concerning the financial disclosure requirements of this Act and the regulations.

Allowances and expenses

(4) The members of the Advisory Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a *per diem* allowance to be payable to each member, and every member is entitled to his reasonable and necessary expenses, as certified by the chairman, for attending at meetings and in the transaction of the business of the Advisory Board. 1966, c. 142, s. 143 (2-4).

Regulations

147. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing categories for companies and the manner of allocating companies to categories, and prescribing the form and content of prospectuses and statements of material facts to be filed with the Commission by companies in accordance with their categories;

(*b*) prescribing the content of the financial statement to be contained with the prospectuses of mining exploration companies or any category thereof in lieu of the financial statement required by section 43 or exempting any category from the application of section 43;

(*c*) prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registrations;

(*d*) classifying registrants into categories and prescribing the terms and conditions of registration of registrants in each category but no registrant shall be included in a category designated as,

(i) investment dealer, unless he is a member of the Ontario District of the Investment Dealers' Association of Canada,

(ii) broker, unless he is a member of a stock exchange in Ontario recognized by the Commission,

(iii) broker-dealer, unless he is a member of the Broker Dealers' Association of Ontario;

(*e*) regulating the listing and trading of securities and records relating thereto;

(*f*) governing the furnishing of information to the public or to the Commission by a registrant in connection with securities or trades therein;

(*g*) regulating the trading of securities other than on a stock exchange recognized by the Commission;

(*h*) governing the keeping of accounts and records, the preparation and filing of financial statements of the

affairs of security issuers and the audit requirements with respect thereto;

(*i*) designating any person or company or any class of persons or companies that shall not be required to obtain registration as adviser;

(*j*) prescribing the fees payable to the Commission, including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;

(*k*) prescribing the documents, reports, statements, agreements and other information and the form, content and other particulars relating thereto that are required to be filed, furnished or delivered under this Act and the regulations;

(*l*) prescribing the practice and procedure of investigations under sections 21 and 23;

(*m*) prescribing the forms for use under this Act and the regulations;

(*n*) prescribing trades or securities, in addition to the trades and securities referred to in section 19, in respect of which registration shall not be required;

(*o*) prescribing trades or securities referred to in section 19 in respect of which there shall cease to be exemption from registration;

(*p*) prescribing trades or securities, in addition to the trades and securities referred to in section 58, in respect of which section 35 does not apply;

(*q*) prescribing terms and conditions that shall be contained in an escrow or pooling agreement with respect to securities issued for a consideration other than cash;

(*r*) prescribing the practice and procedure by which the Commission recognizes exempt purchasers under paragraph 3 of subsection 1 of section 19;

(*s*) prescribing the information required or permitted to be distributed under clause *a* of subsection 2 of section 36;

(*t*) prohibiting or otherwise regulating the distribution of written or printed material by a person or company with respect to a security whether in the course of primary distribution to the public or otherwise;

(*u*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1966, c. 142, s. 144; 1967, c. 92, s. 3; 1968-69, c. 116, s. 10.

Admissibility in evidence of certified statements

148. A statement as to,

(*a*) the registration or non-registration of any person or company;

(*b*) the filing or non-filing of any document or material required or permitted to be filed with the Commission; or

(*c*) any other matter pertaining to such registration, non-registration, filing or non-filing or to any such person, document or material,

purporting to be certified by the Commission or a member thereof or by the Director is, without proof of the office or signature of the person certifying, receivable in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. 1966, c. 142, s. 145; 1968, c. 123, s. 42.

Execution of warrant issued in another province

149.—(1) Where a provincial judge, magistrate or justice of another province or territory of Canada issues a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province or territory similar to this Act, any provincial judge or justice of Ontario within whose jurisdiction that person is or is suspected to be may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the provincial judge or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Ontario and to rearrest such person anywhere in Ontario.

Prisoner in transit

(2) Any constable of Ontario or of any other province or territory of Canada who is passing through Ontario having in his custody a person arrested in another province or territory under a warrant endorsed under subsection 1 is entitled to hold, take and rearrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. 1966, c. 142, s. 146, *amended*.

CHAPTER 427

The Security Transfer Tax Act

1. In this Act, Interpretation

(*a*) "Minister" means the Minister of Revenue;

(*b*) "regulations" means the regulations made under this Act;

(*c*) "security" includes,

(i) any share of capital stock or debenture stock and any bond or debenture issued by any association, company, corporation or government,

(ii) any participating interest in the operations or profits of any association, company or corporation represented by certificates or other instruments of title capable of being sold, transferred or assigned, including mineral deeds, oil royalties, syndicate units and fixed investment trust shares issued by a trustee and representing an equitable ownership in deposited securities, and

(iii) guaranteed trust certificates and investment receipts;

(*d*) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 364, s. 1, *amended*.

2. There shall be imposed, levied, collected and paid to Her Majesty for the uses of Ontario, a tax, Tax imposed

(*a*) upon every change of ownership consequent upon the sale, transfer or assignment of a security made or carried into effect in Ontario;

(*b*) upon every order given to any person, firm or corporation in Ontario for the sale, transfer or assignment of a security when such order is to be executed outside Ontario;

(*c*) upon every transfer or delivery of a security exchanged for another security in Ontario, provided that this clause does not apply where a company through a reorganization of its capital structure calls in or redeems part or all of its issued securities and replaces them by other securities issued by such company to the same security holders;

(*d*) upon every delivery in Ontario of a security held in Ontario for the account of a non-resident of Canada consequent upon the sale, transfer or assignment executed in or outside Ontario by or for such non-resident; and

(*e*) upon every payment made in Ontario, consequent upon the sale, transfer or assignment of a security that has been executed outside Ontario,

provided that only one of the clauses contained in this section applies to the same transaction. R.S.O. 1960, c. 364, s. 2.

Interpretation

3.—(1) In this section, "share" and "share of stock" include a share of any participating interest in the operations or profits of any association, company or corporation and to a guaranteed trust certificate and an investment receipt.

Amount of tax

(2) The tax imposed by section 2 is as follows:

(*a*) 3 cents for every $100 or fraction thereof, of the par value of a bond, debenture or debenture stock;

(*b*) for every share sold, transferred or assigned at a price or valuation of,

(i) over $150 per share, 4 cents per share, plus one-tenth of 1 per cent of the price or value of such share in excess of $150,

(ii) over $75 per share, but not more than $150 per share, 4 cents per share,

(iii) over $50 per share, but not more than $75 per share, 3 cents per share,

(iv) over $25 per share, but not more than $50 per share, 2 cents per share,

(v) over $5 per share, but not more than $25 per share, 1 cent per share,

(vi) $1 per share, but not more than $5 per share, one-quarter of 1 cent per share, and

(vii) less than $1 per share, one-tenth of 1 per cent of the price or value; and

(*c*) 3 cents for every $100 or fraction thereof of the price or value of each syndicate unit, mineral deed, oil royalty, guaranteed trust certificate or investment receipt.

Determination of value

(3) Except as hereinafter provided, if a change of ownership otherwise than by sale at the current market price is effected, of any share of stock, such change of ownership is subject to the tax imposed by this Act, computed on the basis of the current market price of such share of stock. R.S.O. 1960, c. 364, s. 3 (1-3).

(4) In any case where a current market price has not been established by recent sales, or where it is difficult to ascertain the value of the shares of stock, the Minister may fix a price which shall be the price on which the tax shall be paid. R.S.O. 1960, c. 364, s. 3 (2), *amended*. Idem

4. The tax imposed by this Act is payable in security transfer tax stamps or cash by the vendor, transferor, assignor or, in the case of transfers and deliveries referred to in clauses *c* and *d* of section 2, by the person, company, corporation, bank or trust company making delivery. R.S.O. 1960, c. 364, s. 4. Manner of payment

5.—(1) The following transactions are not subject to the tax imposed by this Act: Transactions exempt

(*a*) the sale, transfer or assignment of any bond, debenture or share of a debenture stock issued by or guaranteed as to principal and interest by Canada or any province of Canada or any municipality or school board in Ontario;

(*b*) the allotment by any association, company or corporation of its shares in order to effect an issue thereof, and the first issue of a bond, debenture, share of debenture stock or of any participating interest in the operations or profits of any association, company or corporation, represented by certificates or other instruments of title capable of being sold, transferred or assigned, including mineral deeds, oil royalties, fixed investment trust shares issued by a trustee and representing an equitable ownership in deposited securities;

(*c*) the first issue of a guaranteed trust certificate or investment receipt; and

(*d*) the transfer or assignment of a security made by a borrower *bona fide* as collateral security for an advance or loan and the retransfer or reassignment of such security to the borrower, provided that upon the property in the security passing to the lender as a result of the failure of the borrower to satisfy such advance or loan a change of ownership shall be deemed to have occurred and is subject to the tax imposed by this Act.

(2) For the purposes of this section the underwriting of a bond, debenture or debenture stock, or the first transaction whereby ownership or control is established, shall be deemed to be a first issue thereof. R.S.O. 1960, c. 364, s. 5. Underwriting of bond, etc., to be deemed first issue

6.—(1) Every person liable under this Act or the regulations to collect and pay the tax imposed by this Act shall keep such books and records at his place of business in Ontario as the Minister may require, and such books and records shall be open at Books and records

all reasonable times to the inspection of the officers of the Department of Revenue or such other persons as may be authorized by the Minister to inspect them.

Failure to keep books

(2) If any person liable to maintain books and records for the purposes of this Act has, in the opinion of the Minister, failed to maintain adequate books and records, the Minister may assess the tax payable by such person and the tax so assessed shall be deemed to be due and payable forthwith.

Preventing inspections

(3) Any person who in any way prevents or attempts to prevent any such officer or other person from having access to or inspecting any such books and records, and any person who being liable to keep such books and records refuses to produce them for inspection as required by subsection 1, is guilty of an offence and on summary conviction is liable to a fine of not less than $500 and not more than $5,000 and any fine so recovered is payable to the Treasurer. R.S.O. 1960, c. 364, s. 6, *amended*.

Transaction by Ontario broker R.S.O. 1970, c. 426

7. Every transfer, sale or assignment, ordered, made or carried into effect through a person engaged in the business of a broker within the meaning of *The Securities Act* in Ontario either for himself or on behalf of another person, shall be deemed to be ordered, made or carried into effect in Ontario unless the Minister certifies that the contrary has been established to his satisfaction. R.S.O. 1960, c. 364, s. 7, *amended*.

Collection of tax

8.—(1) Every stock broker, bond dealer, bank, trust company, person, company or corporation selling, transferring or assigning a security or taking or making delivery of a security on behalf of any person, shall collect from such person, the tax imposed by this Act and remit the amount thereof if paid in money, to the Treasurer in accordance with the regulations, and for such purpose the stock broker, bond dealer, bank, trust company, person, company or corporation is the agent of the Treasurer.

Penalty for failure to collect tax

(2) Every stock broker, bond dealer, bank, trust company, person, company or corporation that fails to comply with the provisions of subsection 1 is liable, in addition to the payment of the tax collected or to be collected, to a penalty of $500. R.S.O. 1960, c. 364, s. 8.

Annual return

9.—(1) Every company or corporation, including every extra-provincial company or corporation that has a branch or an agency, or an office of any kind in Ontario, shall on or before the last day of the month ending six months following the close of its fiscal year make an annual return to the Minister showing every sale, transfer or assignment of any registered security issued by such company or corporation made or carried into effect in Ontario, together with the amount of tax collected under this Act.

(2) The return shall be verified by a certificate certifying that the statements in the return are in agreement with the books and records of the company or corporation, and the certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the company or corporation, and in the case of an extra-provincial company, by the manager or chief agent of the company in Ontario, or by such other person or persons connected with the company as the Minister may require. Verification of return

(3) In the case of a company or corporation, the shares, bonds, or debenture stock of which are sold and transferred upon an incorporated stock exchange, the Minister may accept a return from such exchange showing the total amount of such sales, transfers or assignments and the total amount of the tax collected under this Act. Record of stock exchange

(4) In the case of a company or corporation that has duly appointed a trust company as transfer agent for its shares, bonds or debenture stock, the Minister may accept, in lieu of the annual return of such company, a statement from the transfer agent to the effect that the tax on all transfers made during the preceding year has been accounted for in accordance with this Act and the regulations. Records of transfer agent

(5) If a company or corporation makes default in complying with the provisions of this section, the company or corporation is liable to a penalty of $20 for every day during which the default continues, and every director, manager or secretary of the company or corporation who wilfully authorizes or permits such default is liable to a like penalty. R.S.O. 1960, c. 364, s. 9, *amended*. Penalty

10. Any company or corporation entering or permitting the entry in any book or register under its control of any sale, transfer, or assignment of any security issued by it, unless the tax has been paid when such entry is made, is liable to a penalty of not less than an amount equal to the amount of the tax due and a further amount of not less than $20 and not more than $50. R.S.O. 1960, c. 364, s. 10. Penalty for permitting entry in register

11. For the purpose of obtaining any information that he may consider necessary for the purposes of this Act, the Minister may, Obtaining of information

(*a*) demand from any company or corporation or any officer or employee thereof, or any other person, such information as may be indicated in a letter delivered or sent by prepaid post to such company, corporation, officer, employee or other person and every such company, corporation, officer, employee or other person shall furnish to the Minister all such information that he has in his possession or under his control, in writing, within one month of the delivery or sending of such letter; or

(*b*) appoint any officer of the Department of Revenue to make such inquiry as may be necessary to obtain such information and for the purposes of such inquiry such officer has all the power and authority that may be conferred upon a commissioner under *The Public Inquiries Act*,

R.S.O. 1970, c. 379

provided that any act done or proceeding taken under either of the clauses of this section does not preclude the Minister from proceeding under the other clause. R.S.O. 1960, c. 364, s. 11.

Liability for tax

12. Notwithstanding any prior assessment or if no assessment has been made, the person liable thereto shall continue to be liable for any tax imposed by this Act upon a change of ownership of a share, bond or other security and to be assessed therefor and the Minister may at any time assess, reassess or make additional assessments upon any person for tax and penalties. R.S.O. 1960, c. 364, s. 12, *amended*.

Demand for payment

13. Where the Minister finds any tax to be owing by any person he may send a demand for the payment of such tax to such person by prepaid post and such person shall pay the amount of the tax to the Treasurer within thirty days of the sending of such demand and in default of payment of such amount, a penalty of 5 per cent of the amount of tax payable shall be added thereto and thereafter a further penalty of 1 per cent per month shall be added for each additional month or portion thereof during which the tax and penalty remain unpaid. R.S.O. 1960, c. 364, s. 13, *amended*.

Tax payable outside Ontario

14. When it is shown to the satisfaction of the Minister that any change of ownership consequent upon the sale, transfer or assignment of a security, or upon any other transaction mentioned in section 2, is subject to a tax outside Ontario and is subject to a similar tax under the laws of Ontario, he may make an allowance from the tax payable in Ontario in respect of the tax so paid. R.S.O. 1960, c. 364, s. 14, *amended*.

Penalty for false statement

15. Every person who makes any return or furnishes any information to the Minister under this Act containing any false statement is liable to a penlty of not more than $10,000. R.S.O. 1960, c. 364, s. 15, *amended*.

Penalty for contravention

16. Any person who, being thereto liable, neglects or refuses to pay the tax imposed by this Act, or who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is liable for every such contravention to a penalty of not less than an amount equal to the amount of the tax due and not more than an amount equal to $500 more than the amount of the tax due; provided that where no tax is due by such

person the penalty is not less than $50 and not more than $500. R.S.O. 1960, c. 364, s. 16.

Recovery of tax and penalties

17. The tax imposed by this Act and the penalties imposed by sections 8, 9, 10, 13, 15 and 16 may be recovered by an action in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury. R.S.O. 1960, c. 364, s. 17, *amended*.

Dispute as to liability for tax

18. If any doubt or dispute arises as to the liability of a person to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is considered inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he may consider proper, and if the tax demanded has been paid under protest, he may refund it or any part thereof. R.S.O. 1960, c. 364, s. 18, *amended*.

Regulations

19. The Lieutenant Governor in Council may make regulations,

(*a*) authorizing or requiring the Deputy Minister of Revenue or any other officer of the Department of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;

(*b*) determining what constitutes a sale, transfer or assignment within the meaning of this Act;

(*c*) prescribing in any case or class of cases the manner in which and the persons by whom the amount of any tax shall be computed and collected for and on behalf of Her Majesty;

(*d*) providing for the sale of stamps at a discount not exceeding 3 per cent to such persons and for such periods as he considers advisable;

(*e*) providing for the payment of a commission not exceeding 3 per cent to agents of the Treasurer under section 8 who collect the tax in money;

(*f*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 364, s. 19, *amended*.

Affidavits and declarations

20. Declarations and affidavits in connection with this Act may be taken before any person having authority to administer an oath, or before any person specifically authorized for that

purpose by the Lieutenant Governor in Council, but any person so specifically authorized shall not charge any fee therefor. R.S.O. 1960, c. 364, s. 20.

Information obtained under Act

21.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act.

Offence

(2) Every person who contravenes any of the provisions of this section is guilty of an offence and on summary conviction is liable to a fine of not more than $200 and any fine so recovered is payable to the Treasurer. R.S.O. 1960, c. 364, s. 21.

CHAPTER 428

The Seduction Act

When action maintainable by father or mother

1. The father or, in case of his death, the mother, whether she remains a widow or has married again, of an unmarried female who has been seduced, and for whose seduction the father or mother could maintain an action if the unmarried female was at the time dwelling under his or her protection, may maintain an action for the seduction, notwithstanding that the unmarried female was, at the time of her seduction, serving or residing with another person upon hire or otherwise. R.S.O. 1960, c. 365, s. 1.

Proof of service dispensed with

2. Upon the trial of an action for seduction brought by the father or mother it is not necessary to prove any act of service performed by the person seduced, but it shall in all cases be presumed, and no evidence shall be received to the contrary; but if the father or mother of the person seduced had, before the seduction, abandoned her and refused to provide for and retain her as an inmate of his or her home, then any other person who might at common law have maintained an action for the seduction may maintain the action. R.S.O. 1960, c. 365, s. 2.

Where father or mother not resident in Ontario

3. Any person, other than the father or mother, who by reason of the relation of master, or otherwise, would have been entitled at common law to maintain an action for the seduction of an unmarried female, may still maintain the action if the father or mother is not resident in Ontario at the time of the birth of the child that is born in consequence of the seduction or, being resident therein, does not bring an action for the seduction within six months from the birth of the child. R.S.O. 1960, c. 365, s. 3.

Who may maintain action in case of infant orphan

4. If the father and mother of an unmarried female who has been seduced are both dead and the unmarried female is under the age of twenty-one years, any person, who at the time of the birth of the child that is born in consequence of the seduction was the legal guardian of, or stood *in loco parentis* to, the unmarried female, may maintain an action for the seduction notwithstanding that the unmarried female was, at the time of her seduction, serving or residing with another person upon hire or otherwise. R.S.O. 1960, c. 365, s. 4.

CHAPTER 429

The Seed Potatoes Act

Interpretation

1. In this Act,

(*a*) "container" means any bag, sack, crate, barrel or other receptacle in which potatoes may be placed, stored, shipped, offered for sale or sold;

(*b*) "Director" means the Director of the Farm Products Inspection Service of the Department of Agriculture and Food;

(*c*) "grower" means any person who grows potatoes;

(*d*) "inspector" means an inspector appointed under this Act;

(*e*) "Minister" means the Minister of Agriculture and Food;

(*f*) "regulations" means the regulations made under this Act;

(*g*) "restricted area" means a seed potato restricted area constituted under the authority of this Act. R.S.O. 1960, c. 367, s. 1; 1965, c. 121, s. 1, *amended*.

Petition and by-law

2.—(1) Upon the receipt of a petition that, in the opinion of the clerk of the township, bears the signatures of more than 80 per cent of all growers in the area defined in the petition, the council shall pass a by-law constituting the whole or the part of the township described in the petition as a seed potato restricted area.

Petition, contents

(2) The petition shall contain,

(*a*) a detailed description of the boundaries of the proposed restricted area;

(*b*) the approximate acreage of potatoes grown in the preceding year in the proposed restricted area;

(*c*) a list of the names and addresses of all growers in the proposed restricted area. R.S.O. 1960, c. 367, s. 2.

Copy of by-law to be sent to Director

3. The clerk shall send a certified copy of the by-law to the Director within seven days after it is passed. R.S.O. 1960, c. 367, s. 3.

Inspectors

4. Where a by-law under this Act is passed, the council shall appoint one or more inspectors for the restricted area to enforce

the provisions of this Act and the regulations. R.S.O. 1960, c. 367, s. 4.

Restricted area in territory without municipal organization

5.—(1) Upon receipt of a petition containing the information required by subsection 2 of section 2 that, in the opinion of the Minister, bears the signatures of more than 80 per cent of all growers in the area defined in the petition where such area is situated in territory without municipal organization, the Lieutenant Governor in Council may constitute the area described in the petition as a seed potato restricted area.

Inspectors in territory without municipal organization

(2) The Minister shall appoint one or more inspectors for the restricted area to enforce the provisions of this Act and the regulations and shall fix the remuneration to be paid to any such inspector. R.S.O. 1960, c. 367, s. 5.

Power to enter premises

6. In the performance of his duties under this Act and the regulations any inspector may at any time between sunrise and sunset enter any land, building or part of a dwelling house used for storing potatoes in the restricted area. R.S.O. 1960, c. 367, s. 6.

Seed to be planted

7. No grower shall plant within a restricted area any seed potatoes other than those prescribed in the regulations. R.S.O. 1960, c. 367, s. 7.

Moving into area

8. No person shall move or cause to be moved into a restricted area,

potatoes

(*a*) any kind or grade of potatoes without a permit from an inspector; or

containers

(*b*) any container that has been used as a container for potatoes or is infected with any potato disease. R.S.O. 1960, c. 367, s. 8.

New containers to be used

9. All potatoes moved out of a restricted area shall be in new containers. R.S.O. 1960, c. 367, s. 9.

Potatoes for industrial processing, etc.

10. Potatoes moved into a restricted area for industrial processing or for reshipment shall be stored in warehouses or other places of storage approved by an inspector as not being a possible source or means of spreading any potato disease. R.S.O. 1960, c. 367, s. 10.

Disinfecting containers, etc.

11. All places of storage, containers, and machinery used for potatoes in a restricted area shall be disinfected at least once each year, and any planting, harvesting or grading equipment used for potatoes shall be disinfected before such equipment is moved from one farm to another within a restricted area. R.S.O. 1960, c. 367, s. 11.

12. Every inspector shall once each year during the growing season and may at any time inspect the potato fields in his jurisdiction. R.S.O. 1960, c. 367, s. 12. Inspection of fields

13. No person shall move or cause to be moved, from one farm to another within a restricted area, any potatoes infected with bacterial ring rot. R.S.O. 1960, c. 367, s. 13. Moving infected potatoes in area

14. Every person who contravenes any of the provisions of this Act or the regulations, or hinders or obstructs an inspector in the performance of his duties, is guilty of an offence and on summary conviction is liable to a fine of not less than $25 and not more than $200. R.S.O. 1960, c. 367, s. 14. Offence

15. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) prescribing the kinds and grades of potatoes that may be planted in a restricted area;

(*b*) defining classes of persons and exempting such classes from the Act and the regulations;

(*c*) prescribing the duties of inspectors;

(*d*) providing for the making of grants by the Minister out of such moneys as may be appropriated by the Legislature for the purpose of reimbursing any township for any expense it has incurred under this Act;

(*e*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 367, s. 15.

CHAPTER 430

The Separate Schools Act

PART I

PROTESTANT SEPARATE SCHOOLS

Application to establish Protestant separate schools

1.—(1) Subject to subsection 3, five or more heads of families resident in a municipality and being Protestants may, before the 1st day of July in any year, apply in writing, in the case of a township, to the council of the township or, in the case of an urban municipality, to the public school board for permission to establish in the municipality one or more separate schools for Protestants.

Permission to establish

(2) Subject to subsection 3, the council or the public school board, as the case may be, within thirty days of the receipt of a proper application shall grant permission to the applicants to establish in the municipality one or more separate schools for Protestants.

Restrictions on establishment

(3) A Protestant separate school shall not be established in a municipality except where the teacher or teachers in the public school or schools in the municipality are Roman Catholics. 1964, c. 108, s. 1, *part*.

Location in township

2. Where a Protestant separate school is to be established in a township, the township council shall determine the location of the school. 1964, c. 108, s. 1, *part*.

Location in urban municipality

3. A Protestant separate school board in an urban municipality may operate one school in each ward, or one school to serve two or more wards. 1964, c. 108, s. 1, *part*.

Effective date

4. A Protestant separate school is established on the day following the granting of permission to establish the school by the council or public school board, as the case may be. 1964, c. 108, s. 1, *part*.

Notice to be supporter, exemption from public school rates

5.—(1) Every person paying rates on property that he occupies as owner or tenant in a municipality in which a Protestant separate school is established, who, by himself or his agent, on or before the 30th day of September in any year, gives to the clerk of the municipality notice in writing that he is a Protestant and that he wishes to be a Protestant separate school supporter, is exempt from the payment of all rates imposed on such property for the

support of public schools or for the purchase of land or the erection of buildings for public school purposes for the following year and every subsequent year while he continues to be a Protestant separate school supporter with respect to such property.

No renewal required

(2) The notice is not required to be renewed annually.

Certificate of notice

(3) Every clerk of a municipality, upon receiving the notice, shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof.

Penalty for wilful false statements in notice

(4) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, does not thereby secure any exemption from the rates, and in addition is guilty of an offence and liable to a fine of $40.

As to rates imposed before Protestant separate school established

(5) Nothing in this section exempts any person from paying any rate for the support of public schools, or public school libraries, or for the erection of a schoolhouse or schoolhouses, imposed before the establishment of the Protestant separate school. 1964, c. 108, s. 1, *part*.

Withdrawal of support

6. A Protestant separate school supporter who desires to withdraw his support from a Protestant separate school shall give notice thereof in writing to the clerk of the municipality in which he resides on or before the 30th day of September in any year, otherwise he shall be deemed to be a supporter of a Protestant separate school. 1964, c. 108, s. 1, *part*.

Index book

7.—(1) The clerk of each municipality in which a Protestant separate school is established shall keep an index book to record the names of Protestants who wish to become supporters of a Protestant separate school in the same manner *mutatis mutandis* as is provided for the keeping of an index of Roman Catholics who wish to become supporters of a Roman Catholic separate school.

Inspection

(2) The index book shall be open to inspection by any ratepayer.

Filing of notices

(3) The clerk shall file and carefully preserve all notices given to the clerk of the municipality under sections 5 and 6.

Assessor to be guided by index

(4) The assessor shall be guided by the entries in the index book in ascertaining those who have given the prescribed notices. 1964, c. 108, s. 1, *part*.

Not to share in public school assessment

8.—(1) Protestant separate schools shall not share in money raised by local municipal assessment for public school purposes.

Share of legislative grants

(2) Every Protestant separate school shall share in the legislative grants in like manner as a public school. 1964, c. 108, s. 1, *part*.

9.—(1) Every Protestant separate school board and principal of a Protestant separate school in a municipality shall transmit reports to the supervisory officer designated by the Minister and to the Minister in such form and at such times as the supervisory officer or the Minister may require. Reports

(2) The clerk or other officer of the municipality in which a Protestant separate school is established who has possession of the assessor's or collector's roll of the municipality shall allow any trustee or the authorized collector of the Board to make a copy of the roll. 1964, c. 108, s. 1, *part*, *amended*. Use of assessor's roll by board

10. Every person who is assessed as a Protestant separate school supporter and whose name appears on the voters' list of the municipality in which the land in respect of which he or she is assessed is situate, and the wife or husband of such supporter, if she or he is a Protestant, is entitled to vote at the election of trustees and on any school question. 1964, c. 108, s. 1, *part*. Qualification of a voter

11.—(1) A Protestant separate school trustee shall have the same qualifications as a public school trustee, except that he shall be a supporter of a Protestant separate school. Qualification of a trustee

(2) A Protestant separate school board shall have the same number of trustees as a Roman Catholic separate school board would have if established in the same municipality, and the trustees may be elected in the same manner as Roman Catholic separate school trustees may be elected, and the provisions of Part II with respect to the election of trustees of Roman Catholic rural and urban separate schools apply *mutatis mutandis* to the election of trustees of Protestant rural and urban separate schools. 1964, c. 108, s. 1, *part*. Election of trustees

12. The trustees of every Protestant separate school board are a body corporate under the name of "The Protestant Separate School Board of the (*City, Town, Village or Township*) of .....". 1964, c. 108, s. 1, *part*. Corporate name of board

13. A Protestant separate school board has the same powers as a rural public school board in territory without municipal organization, and the regulations under *The Department of Education Act* with respect to elementary schools apply to every Protestant separate school board. 1964, c. 108, s. 1, *part*. Powers of board

R.S.O. 1970, c. 111

14. A Protestant separate school board is discontinued in the same manner as a Roman Catholic separate school board and may be re-established in the manner provided in section 1. 1964, c. 108, s. 1, *part*. Discontinuing board

Application of ss. 30-33, 61-63

15. Sections 30 to 33 and 61 to 63 apply in respect of Protestant separate schools and Protestant separate school boards. 1964, c. 108, s. 1, *part*.

PART II

ROMAN CATHOLIC SEPARATE SCHOOLS

ESTABLISHMENT

Application of Part

16. This Part applies to separate schools for Roman Catholics now or hereafter established. R.S.O. 1960, c. 368, s. 16.

Interpretation

17. In this Part,

(*a*) "combined separate school zone" means a union of two or more separate school zones;

(*b*) "Department" means the Department of Education;

(*c*) "Minister" means the Minister of Education;

R.S.O. 1970, c. 32

(*d*) "parcel of land" means a parcel of land that by *The Assessment Act* is required to be separately assessed;

R.S.O. 1970, c. 111

(*e*) "regulations" means the regulations made under *The Department of Education Act*;

(*f*) "rural school" means a separate school for Roman Catholics in a township or in territory without municipal organization;

(*g*) "rural separate school zone" means a separate school zone established under section 18 in a school section in one or more townships or under section 22 in territory without municipal organization;

(*h*) "secretary" or "treasurer" includes a secretary-treasurer;

(*i*) "separate school" means a separate school for Roman Catholics;

(*j*) "separate school zone" means the area in which property may be assessed to support a separate school or schools under the jurisdiction of one separate school board;

(*k*) "urban school" means a separate school for Roman Catholics in a city, town or village;

(*l*) "urban separate school zone" means a separate school zone established under section 18 in an urban municipality. R.S.O. 1960, c. 368, s. 17; 1962-63, c. 132, s. 1; 1966, c. 143, s. 1.

18.—(1) Not fewer than five heads of families, being householders or freeholders resident within any former school section of a township, or within a city, town or village, and being Roman Catholics, may convene a public meeting of persons desiring to establish a separate school therein for the election of trustees. R.S.O. 1960, c. 368, s. 18, *amended*. Meeting to establish a separate school

(2) Where a separate school is to be established in a township school area, the householders or freeholders referred to in subsection 1 shall be resident within a former school section as it existed immediately before the formation of the township school area. 1965, c. 122, s. 1. in township school area

19. Any person being a Canadian citizen and not less than twenty-one years of age may be elected a trustee whether he is or is not a householder or freeholder. 1965, c. 122, s. 2. Trustees' qualifications

20.—(1) A majority of the persons present, being householders or freeholders, and Roman Catholics, may at the meeting elect from the duly qualified persons the requisite number of trustees. R.S.O. 1960, c. 368, s. 19. Election of trustees

(2) Where a meeting is convened to establish a separate school in an urban municipality that is divided into wards, unless at such a meeting a motion is passed to elect trustees by wards in accordance with section 39, the trustees shall be elected by general vote. 1961-62, c. 132, s. 1. In urban municipalities in wards

21.—(1) Notice in writing that the meeting has been held, and of the election, shall be delivered by one of the trustees so elected to the head of the municipality or to the chairman of the board of public school trustees in the township, village, town or city in which the school is about to be established, designating by their names, occupations and residences the persons elected as trustees. Notice of meeting; and to whom given

(2) The officer receiving the notice shall endorse thereon the date of its receipt, and shall deliver a copy of the notice so endorsed and duly certified by him to the trustees, who shall forthwith transmit the copy and a copy of the minutes of the meeting and of the notice calling it to the Department. Notification of result to Department

(3) From and after the delivery of the notice to such officer the trustees therein named are a body corporate under the name, in the case of a city, town or village, of "The Board of Trustees of the Roman Catholic Separate Schools for the City (Town *or* Village, *as the case may be*) of....." and in the case of rural boards of "The Board of Trustees of the Roman Catholic Separate School for School Section Number ....., in the Township of .....". R.S.O. 1960, c. 368, s. 20 (1-3). Corporate name of trustees

Name of board in a township school area

(4) Where a separate school is established in a township school area, the name of the board of the separate school shall include the number of the former school section in which the school is situated. R.S.O. 1960, c. 368, s. 20 (4), *amended*.

Meeting for purpose of electing trustees

22.—(1) In unorganized townships and in any part of Ontario not surveyed into townships,

(*a*) ten or more heads of families; or

(*b*) where the school is to be united, effective on the 1st day of January of the following year, with one or more separate schools to form a combined separate school, five or more heads of families,

who are Roman Catholics, may, at a public meeting called for that purpose, elect three of their number as school trustees, and the trustees so elected have all the powers of a public school board in unorganized townships, and are in all other respects subject to the provisions of this Act.

Where school not united

(2) Where in any year a school is established by not fewer than five heads of families under clause *b* of subsection 1, the public meeting for the election of trustees shall be held before the 1st day of June in that year, and the separate school board so formed shall proceed in the same year to implement the provisions of section 34, and if the school is not united with one or more separate schools to form a combined separate school before the 1st day of August in that year under section 34, the board is dissolved on that date. 1968, c. 125, s. 1.

Corporate name of board

(3) The trustees are a body corporate under the name of,

(*a*) where the separate school is located in an unorganized township, "The Roman Catholic Separate School Board No. ..... of the Township of ..... in the Territorial District of ....." (*inserting the number of the school section in which the separate school is located and, if it is not in a school section, inserting a number selected by the appropriate supervisory officer that will be used until a school section is formed that includes the separate school within its boundaries*);

(*b*) where the separate school is located in unsurveyed territory, "The Roman Catholic Separate School Board of ..... in the Territorial District of ....." (*inserting a name selected by the appropriate supervisory officer and the name of the territorial district*). R.S.O. 1960, c. 368, s. 21 (2); 1960-61, c. 94, s. 1 (1), *amended*.

Legislative grants

(4) On receipt of notice by the Department signed by the trustees so elected that a school has been established and suitable

accommodation provided for school purposes, the Minister may pay to the board out of the appropriation made by the Legislature for public and separate schools such sum for the maintenance of the school as may be approved by the Lieutenant Governor in Council.

Appointment of collector

(5) The board may appoint a fit and proper person, who may be one of the trustees, to collect the rates imposed upon the supporters of the school or the sums that the inhabitants or others have subscribed or a rate-bill imposed upon any person, and may pay to the collector at the rate of not less than 5 and not more than 10 per cent on the money collected by him, and every collector shall give such security as may be required by the board.

Powers and duties of collectors

(6) Every collector has the same powers in collecting the school rate, rate-bill or subscription and is under the same liabilities and obligations and shall proceed in the same manner as a township collector in collecting rates in a township. R.S.O. 1960, c. 368, s. 21 (3-5).

Return of arrears of taxes in unorganized territory

(7) The collector shall, on or before the 8th day of April in the year following the year in which a school rate becomes due and payable, make a return to the sheriff of the district showing each lot or parcel assessed upon which the school rates have not been fully paid, the name of the person assessed as owner or occupant and the amount of school rates chargeable against the lot or parcel and in arrear at the date of the return, with the year for which the rates so in arrear were imposed.

Entry in sheriff's book

(8) The sheriff shall enter in a book to be kept by him for that purpose the particulars furnished by the collector.

Payment of arrears thereafter

(9) The collector shall not receive any payment on account of school rates so in arrear after the expiration of two years from the date when the rates became due, but, in the case of payments made before the expiration of that period, the collector shall forthwith notify the sheriff thereof and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him.

When arrears to be paid to sheriff

(10) After the expiration of such period, all such arrears are payable to the sheriff, who shall enter all payments in the book kept by him and who shall return the amount paid to the treasurer of the board.

Sale of lands for arrears

(11) When it appears from the entries in the book kept by the sheriff that any school rate is in arrear for three years from the 31st day of December in the year in which the rate became payable, the sheriff shall proceed to collect such rate by the sale of the lands assessed, and the procedure in relation to such sale and the provisions applicable to purchase by the municipality and to the redemption of lands thereafter and to deeds to be given by the sheriff to tax purchasers shall be the same as nearly as may be as in the case of the sale of lands for arrears of taxes in organized

municipalities, and the board may in such cases exercise the power of purchase conferred upon a municipality. 1960-61, c. 94, s. 1 (2).

Assessment appeals, etc. R.S.O. 1970, c. 385

23. Section 37 of *The Public Schools Act* applies *mutatis mutandis* with respect to separate schools in territory without municipal organization. 1961-62, c. 132, s. 2.

Right to vote re establishment of separate school

24.—(1) A Roman Catholic who is a householder or freeholder and of the full age of twenty-one years and who desires to establish a separate school is entitled, in the year in which the separate school is established, to vote on any matter relating to such separate school if,

(*a*) in the case of a township, he resides in the former school section in which the separate school is being established; or

(*b*) in the case of an urban municipality, he resides in the municipality; or

(*c*) in the case of a separate school for a ward in an urban municipality, he resides in the ward; or

(*d*) in the case of territory without municipal organization, he resides in territory without municipal organization and within three miles of the centre designated by the ten or more heads of families who call a meeting under subsection 1 of section 22.

Persons qualified to call meeting under s. 22

(2) The persons who are entitled to vote under clause *d* of subsection 1 are the persons qualified to call a meeting under subsection 1 of section 22. 1962-63, c. 132, s. 2, *amended*.

Right of person to attend separate school

25.—(1) Every person who has attained the age of five years on or before the 31st day of December in any year and whose parent or guardian resides in a separate school zone and is a separate school supporter has the right to attend, after the 1st day of September in the following year, a separate school in that zone at the expense of the separate school board, except a person who, by reason of mental or physical defect, is unable to profit by instruction in the separate school or a person who has attained the age of twenty-one years. 1962-63, c. 132, s. 3 (1).

Determination as to whether or not person can profit by instruction

(2) Where a question arises as to whether or not a person can profit by instruction in a separate school, the matter shall be referred to a committee appointed by the Minister for that purpose, and the decision of the committee is final.

Evidence as to right to attend

(3) It is the responsibility of the parent or guardian to submit evidence that the child has a right to attend the separate school, including proof of age.

(4) Where a board operates a kindergarten in a separate school, the age at which the child has the right to attend kindergarten in that school is lower by one year than that stated in subsection 1. Kindergarten

(5) Where the board operates a junior kindergarten in a separate school, the age at which the child has the right to attend junior kindergarten in that school is lower by two years than that stated in subsection 1. R.S.O. 1960, c. 368, s. 22 (3-6). Junior kindergarten

(6) The board may charge a fee as provided in section 72 of *The Schools Administration Act*, to be prepaid monthly by the parent or guardian for attendance in kindergarten or junior kindergarten of pupils who have not attained the age stated in subsection 1. R.S.O. 1960, c. 368, s. 22 (7); 1965, c. 122, s. 3 (2). Kindergarten fees R.S.O. 1970, c. 424

(7) Subject to subsection 8, a child who is a ward of a children's aid society shall be admitted to a separate school by the separate school board that was supported by his parent or guardian with whom he resided in the year in which he became a ward and no fee shall be charged by the board. R.S.O. 1960, c. 368, s. 22 (8); 1965, c. 122, s. 3 (3). Admission of ward of children's aid society

(8) A child who is a ward of a children's aid society and who has been placed for adoption on a probationary basis shall be admitted, without the payment of a fee, to a separate school by the board of the separate school that is supported by the assessment of the residence in which he resides with his adoptive parent upon receipt from the children's aid society of a certificate stating that he has been so placed for adoption. 1965, c. 122, s. 3 (4). Where ward placed for adoption

(9) Where a child who is a Roman Catholic and who is in the custody of a corporation, society or person and who is not qualified for admission under the other provisions of this section resides with a supporter of a separate school and the supervisory officer of the separate school certifies that there is sufficient accommodation in the separate school for the current school year, the separate school board shall admit the child to a separate school upon the prepayment monthly by the corporation, society or person of a fee as provided in section 72 of *The Schools Administration Act*. R.S.O. 1960, c. 368, s. 22 (9); 1965, c. 122, s. 3 (5), *amended*. Idem

(10) Subject to subsection 2, a child whose mother, Admission of child whose mother is sole supporter, etc.

(*a*) resides in Ontario;

(*b*) is the sole support of the child;

(*c*) is not assessed as a supporter of a public or separate school in any school section; and

(*d*) boards her child, who is a Roman Catholic, with a supporter of a separate school in a residence other than a children's boarding home as defined in *The Children's Boarding Homes Act*,

R.S.O. 1970, c. 65

shall be admitted to the separate school without the payment of a fee. R.S.O. 1960, c. 368, s. 22 (10).

Admission where separate school supporter moves into residence assessed to public school support

(11) Subject to subsection 2, where a child whose parent or guardian is a separate school supporter moves with his parent or guardian into a residence that is assessed for public school purposes, and the date upon which the assessment for the current year may be changed to the support of separate schools has passed, upon the filing of a notice of change for the following year with the clerk of the municipality, the child shall be admitted to a separate school by the board of the separate school zone in which he and his parent or guardian reside without the payment of a fee. R.S.O. 1960, c. 368, s. 22, (11); 1962-63, c. 132, s. 3 (2).

Agreement between boards

(12) A separate school board may by agreement with another separate school board furnish education for the pupils of the other board and for that purpose shall charge a fee calculated in accordance with section 72 of *The Schools Administration Act*. R.S.O. 1960, c. 368, s. 22 (12); 1965, c. 122, s. 3 (6); 1968, c. 125, s. 2 (1).

R.S.O. 1970, c. 424

Agreements for education of separate school pupils in public school

(13) A separate school board and a public school board may enter into an agreement in respect of the provision of education in a school under the jurisdiction of the public school board for pupils of the separate school board in a course or courses that are not available in a school under the jurisdiction of the separate school board, or that are considered by the separate school board to be not readily accessible to the pupils in respect of whom the agreement is made where,

(*a*) the appropriate supervisory officer of the public school board certifies that accommodation is available in such school for such pupils; and

(*b*) the separate school board pays a fee for each such pupil calculated in accordance with section 72 of *The Schools Administration Act*. 1970, c. 64, s. 1.

Where separate school supporter resides in one zone but is closer by road to a separate school in another zone

(14) Where a separate school pupil resides with his parent or guardian in one zone and his residence is nearer by road to a separate school in another zone, as certified by the supervisory officer for the zone in which the pupil resides, the board of the other zone may admit the pupil for the current year if the supervisory officer for that school certifies that there is sufficient accommodation for him, and, unless the board of the zone in which he resides furnishes transportation for him to a school in his zone, the board of the zone in which he resides shall pay to the

other board a fee calculated in accordance with section 72 of *The Schools Administration Act*. 1962-63, c. 132, s. 3 (3), *part*; 1965, c. 122, s. 3 (7); 1968, c. 125, s. 2 (3), *amended*.

Where a separate school supporter resides in one zone but owns land in another zone

(15) Where a parent or guardian wishes to enrol his child in a separate school in a zone other than the one in which the parent or guardian and the child reside, and the parent or guardian is assessed for separate school purposes in that zone,

(*a*) as an owner; or

(*b*) for business assessment; or

(*c*) as an owner and for business assessment,

for an amount at least equal to the total assessment for separate school purposes in that zone divided by the average daily attendance of resident pupils in the preceding year, the child shall be admitted to a separate school by the board of that zone without the payment of a fee.

Residents of non-assessable property

(16) Where a child, whose parent or guardian is a Roman Catholic, resides with his parent or guardian on land that is exempt from taxation for school purposes, he shall be admitted to a separate school that is accessible to him and in which the appropriate supervisory officer has certified that there is sufficient accommodation for the current school year, and fees shall be paid in accordance with the regulations respecting the education of such pupils. 1962-63, c. 132, s. 3 (3), *part*, *amended*.

Where pupil residing in combined separate school zone attends school in another combined zone R.S.O. 1970, c. 424

(17) Where a separate school pupil resides with his parent or guardian in a combined separate school zone under Part III and attends a separate school in another combined separate school zone under section 92, the board of the combined separate school zone in which he resides shall pay a fee calculated in accordance with section 72 of *The Schools Administration Act* to the combined separate school board that operates the separate school attended by the pupil. 1968, c. 125, s. 2 (4).

RURAL SEPARATE SCHOOLS

Trustees' term of office

26. For every rural school there shall be three trustees, each of whom, after the first election, shall hold office for three years and until his successor has been elected. R.S.O. 1960, c. 368, s. 23.

Retirement by rotation

27.—(1) The trustees elected at the first meeting shall hold office,

(*a*) the person first elected, for two years from the annual school meeting next after his election and until his successor has been elected;

(*b*) the person secondly elected, for one year from such annual school meeting and until his successor has been elected;

(*c*) the person last elected, until the next ensuing annual school meeting and until his successor has been elected.

Vacancies

(2) A trustee elected to fill a vacancy shall hold office only for the unexpired term of the person in whose place he has been elected. R.S.O. 1960, c. 368, s. 24 (1, 2).

Re-election

(3) A retiring trustee may be re-elected with his own consent, otherwise he is exempt from serving for four years next after leaving office. R.S.O. 1960, c. 368, s. 24 (4).

Electors, qualification

28.—(1) Every householder or freeholder of the full age of twenty-one years, who is a supporter of a rural separate school, is entitled to vote at any election for school trustee or on any school question at any annual or special meeting of the supporters of the school. R.S.O. 1960, c. 368, s. 26.

Idem

(2) A person who is a Roman Catholic and is the wife of a supporter of a rural separate school who is entitled to vote under subsection 1 is entitled to vote at the election of trustees of such school and on any question submitted to a meeting of the supporters, except a question involving the selection of a school site or an expenditure for a permanent improvement. 1962-63, c. 132, s. 4.

Annual meeting

29.—(1) A meeting of the supporters of a rural school for the purpose among other things of electing trustees shall be held annually on the last Wednesday in December or, if that day is a holiday, on the next day following, commencing at the hour of 10 o'clock in the forenoon, or if the board by resolution so directs, at the hour of 1 o'clock or 8 o'clock in the afternoon, at such place as the board by resolution determines or, in the absence of such resolution, at the separate school.

Idem

(2) Where the annual meeting of supporters of the school cannot conveniently be held as provided for in subsection 1, the supporters, at a regular meeting or at a special meeting called for that purpose, may pass a resolution naming another day for the holding of the annual meeting and, upon receiving the Minister's approval, the annual meeting shall be held on that day in each year thereafter unless with the Minister's approval some other day is similarly named; provided that no subsequent alteration of the day for holding the annual meeting may be made until at least three annual meetings have been held on the day previously named and approved.

Organization of meeting

(3) The supporters of the school present at the meeting shall elect one of themselves to preside over its proceedings and shall

also appoint a secretary who shall record the proceedings of the meeting and perform such other duties as are required of him by this Part.

Order of business

(4) The business of the meeting may be conducted in the following order:

(a) receiving and dealing with the annual report of the trustees;

(b) receiving and dealing with the annual report of the auditors;

(c) electing one or more auditors for the current year;

(d) electing a trustee or trustees to fill any vacancy or vacancies; and

(e) miscellaneous business. R.S.O. 1960, c. 368, s. 27 (1-4).

Chairman, duties

(5) The chairman shall preside and shall submit all motions to the meeting in the manner desired by the majority, and the chairman is entitled to vote on any motion, and, in the case of a tie vote with respect to the election of two or more candidates, the chairman shall give a casting vote or provide for drawing lots to determine which of the candidates is elected, and, in the case of a tie vote on a question, the question is deemed to be negatived. 1964, c. 108, s. 3 (1).

Granting poll and proceedings in case of a poll

(6) Where a poll is demanded by two supporters of the school at a meeting for the election of a trustee the chairman shall forthwith grant the poll.

Entries in poll book

(7) Where a poll is granted the secretary shall enter in a poll book the name and residence of each qualified supporter of the school offering to vote within the time prescribed and shall furnish him, at the time of voting, with a ballot paper on the back of which he has placed his initials, and shall provide a pencil for the marking of the ballot paper.

Form of ballot paper

(8) Ballot papers shall be pieces of plain white paper of uniform size.

Marking of ballot paper

(9) A voter shall mark his ballot,

(a) in the election of a trustee, by marking the name of the trustee thereon; and

(b) on a question, by marking the word "for" or "against" thereon.

Manner of voting

(10) Each voter shall mark his ballot paper in a compartment or other place provided for the purpose that is so arranged that the manner in which he marks his ballot is not visible to other persons and shall thereupon fold it so that the initials of the secretary can be seen without opening it and hand it to the secretary who shall, without unfolding it, ascertain that his

initials appear upon it and shall then in full view of all present, including the voter, place the ballot in a ballot box or other suitable container that has been placed and is kept upon a table for the purpose.

Appointment of scrutineer

(11) Every candidate may appoint a person to act as his scrutineer during the election. R.S.O. 1960, c. 368, s. 27 (6-11).

When voter is objected to

(12) When an objection is made to the right of a person to vote at an annual or special meeting, either for trustee or upon a school question, the chairman shall require the person whose right to vote is objected to to make the following declaration, whereupon the person making the declaration is entitled to vote:

I, ..., declare,

(*a*) that I am a householder or freeholder assessed to the support of

.....; or
(*insert name of board*)

(*b*) that I am the wife of a supporter of

.....; and
(*insert name of board*)

(*c*) that I am of the full age of twenty-one years; and

(*d*) that as such supporter or wife of a supporter I have the right to vote at this meeting.

1965, c. 122, s. 5.

When poll shall close

(13) The poll shall not close before noon, but shall close at anytime thereafter when a full hour has elapsed without any vote being polled, and shall not be kept open later than 4 o'clock in the afternoon.

Polling at afternoon meetings

(14) When the meeting is held at 8 o'clock in the afternoon the supporters present may decide by resolution that the polling shall take place forthwith or at 10 o'clock on the following morning, and if it takes place forthwith the poll shall close when ten minutes have elapsed without any vote being recorded. R.S.O. 1960, c. 368, s. 27 (13, 14).

Counting votes, tie vote

(15) When the poll is closed, the chairman and secretary shall count the votes polled for the respective candidates or affirmatively and negatively upon the question submitted, and,

(*a*) in the case of a tie vote with respect to the election of two or more candidates, the chairman shall give a casting vote or provide for drawing lots to determine which of the candidates is elected; and

(*b*) in the case of a tie vote on a question, the question is deemed to be negatived. 1964, c. 108, s. 3 (2).

Declaration of result

(16) In the case of an election of trustees the chairman shall then declare the candidate elected for whom the highest number

of votes has been polled, and in case of a vote on a school question he shall declare the same adopted or negatived as the majority of votes is in favour of or against the same.

Statement of result of poll

(17) A statement of the result of the vote shall be certified by the chairman and secretary and in the case of an election of trustees the statement shall be signed by any scrutineers present at the counting of the ballots and a copy thereof shall be delivered to each candidate.

Secretary to transmit minutes to inspector

(18) A correct copy of the minutes of every meeting, signed by the chairman and secretary of the meeting, shall be transmitted forthwith by the secretary to the supervisory officer of the separate school. R.S.O. 1960, c. 368, s. 27 (16-18), *amended*.

Meetings called in default of first or annual meetings

(19) If from want of proper notice or other cause any meeting for the election of trustees is not held at the proper time the supervisory officer or any two supporters of the school may call a meeting by giving six days notice posted up in at least three of the most public places in the locality in which the school is situate, and the meeting thus called has all the powers and shall perform all the duties of the meeting in the place of which it is called. R.S.O. 1960, c. 368, s. 27 (19); 1966, c. 143, s. 4, *amended*.

Organization and quorum

30. A majority of the trustees is a quorum, and the board shall be organized by the election of a chairman and of a secretary and a treasurer or of a secretary-treasurer. R.S.O. 1960, c. 368, s. 28.

Regularity

31. No act or proceeding is valid that is not adopted at a regular or special meeting of the board of which notice has been given as required by this Act and at which at least two trustees are present. R.S.O. 1960, c. 368, s. 29.

Duties of secretary

32. It is the duty of the secretary,

(*a*) to call, at the request in writing of two trustees, a special meeting of the board; and

(*b*) to give notice of all meetings to each of the trustees by notifying him personally or in writing, or by sending a written notice to his residence. R.S.O. 1960, c. 368, s. 30.

Appointment of auditor by Minister

33. Where a board neglects or the ratepayers at an annual or special meeting neglect to appoint an auditor, or an auditor appointed refuses or is unable to act, the Minister, upon the request in writing of any five supporters of the school, may make the appointment. R.S.O. 1960, c. 368, s. 31.

Formation of combined separate school

34.—(1) A separate school board or five supporters of a separate school may, before the 1st day of July in any year, hold a meeting of the separate school supporters to consider the question

of uniting the school with one or more other separate schools to form a combined separate school and, where the majority of the supporters of each of two or more separate schools who vote on the question vote in favour of union, the trustees of the board of each separate school to be united shall give notice, before the 1st day of August, to the Minister and the clerks of the municipalities in which the separate schools are situated, and the combined separate school thus formed shall be deemed one school for all Roman Catholic separate school purposes on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be one school on the day of nomination for trustees of the combined separate school. 1961-62, c. 132, s. 4 (1), *part*; 1962-63, c. 132, s. 5 (1).

Adjustment of rights

(2) In order to adjust the rights and claims of the combining boards, the supporters of any school may offer to assume and may assume a differential in rates for a stated period of time. 1966, c. 143, s. 5 (1).

Dissolution of boards

(3) When a combined separate school becomes one school for all Roman Catholic separate school purposes, the board of each school forming part of the union is dissolved, and all the real and personal property vested in such board is vested in the board of the combined separate school. 1967, c. 93, s. 1 (1).

Corporate name

(4) The trustees of a combined separate school are a corporation by the name of "The Board of the Combined Roman Catholic Separate Schools of ....." (*in the case of a combined separate school zone including one or more urban municipalities, insert in order of population, commencing with the municipality having the greatest population, the names of the urban municipalities and, in alphabetical order, the township municipalities and geographic townships in which the Board has one or more centres and the names of rural zones in unsurveyed territory but, where an urban municipality has a population of 2,000 or more, the names of the municipalities having a population of less than 2,000 may be omitted and, in the case of a combined separate school zone that does not include an urban municipality, insert in alphabetical order the names of the township municipalities and geographic townships in which the Board has one or more centres and the names of rural zones in unsurveyed territory and, where the centres of two or more combined separate school zones are located in the same municipality or geographic township, a number shall be assigned by the appropriate supervisory officer*). 1967, c. 93, s. 1 (2), *amended*.

First trustees

(5) For the purpose of electing the first trustees for a combined separate school, the boards of the separate schools forming the combined separate school shall, before the 1st day of December, each appoint a person to a committee, which shall arrange for the election of trustees in accordance with section 29 or 43 and may pass a resolution adopting municipal elections under section 44. 1967, c. 93, s. 1 (3).

Trustees

(6) Where a combined separate school is formed or where another separate school is added to or detached from a combined separate school, the trustees in office shall retire on the 1st day of January following the election of trustees of the combined separate school, and, subject to subsections 10 and 11, five trustees shall be elected by the supporters of the newly-created or altered combined separate school as provided in section 29. 1966, c. 143, s. 5 (3); 1967, c. 93, s. 1 (4).

Term of office

(7) Of the five trustees elected at the first election, the three trustees receiving the highest, second highest and third highest number of votes shall hold office for two years and the two remaining trustees shall hold office for one year, and every trustee shall continue in office until his successor has been elected and a new board is organized at the first meeting of the board held in accordance with section 48 of *The Schools Administration Act*. R.S.O. 1960, c. 368, s. 32 (3); 1961-62, c. 132, s. 4 (2).

R.S.O. 1970, c. 424

Equality of votes at first election

(8) In case, at the first election of trustees, two or more trustees receive an equal number of votes or all the trustees are declared elected by acclamation, the question as to which trustees shall hold office for two years shall be determined by lot to be cast by the secretary appointed under subsection 3 of section 29 in the presence of a majority of the elected trustees and the result shall be entered in the minutes of the meeting. R.S.O. 1960, c. 368, s. 32 (4).

Subsequent elections

(9) After the first election, an election shall be held in each year to fill the office of any trustee whose term of office expires in that year and the trustee elected shall hold office for two years and until his successor has been elected and a new board is organized at the first meeting of the board held in accordance with section 48 of *The Schools Administration Act*. R.S.O. 1960, c. 368, s. 32 (5); 1961-62, c. 132, s. 4 (3).

Trustees in combined separate school zone including urban municipality

(10) Where a combined separate school zone includes one or more urban municipalities, the board shall be composed of the same number of trustees as the separate school board of the urban municipality having the greatest population would have had under section 38, and the board shall be deemed to be an urban board and the zone shall be deemed to be an urban combined separate school zone. 1965, c. 122, s. 6 (2).

Resolution providing for trustees

(11) Notwithstanding subsections 6 and 10, the board of a combined separate school may be composed of such number of trustees, not fewer than five or more than thirteen, representing such municipalities or parts thereof, or separate school zones in territory without municipal organization, within the combined separate school zone as is provided for in a resolution passed by the board, or, in the case of a newly-formed combined separate school, by the committee formed under subsection 5, and the

board of the combined separate school zone shall be deemed to be an urban separate school board.

Election and term of office

(12) Where a resolution is passed under subsection 11 the trustees shall be elected at large in the areas within the combined separate school zone that they respectively represent, and sections 43, 44 and 45 apply *mutatis mutandis*, provided that, where a municipality is divided into wards, the resolution may provide for representation by wards, and the trustees shall hold office for such terms as the resolution prescribes.

Voters' list for areas in combined zone

(13) Where one or more trustees represent two or more municipalities or parts thereof, or two or more municipalities or parts thereof and one or more separate school zones in territory without municipal organization and a resolution is passed adopting municipal elections under section 44, the resolution shall state in which municipality the vote is to be conducted, and the clerk of each other municipality or part thereof and the secretary of each separate school zone that is represented by the same trustee or trustees shall furnish to the clerk of the municipality in which the vote is to be conducted a list of voters of the municipality or part or zone indicating the names of all persons thereon who are separate school supporters.

Copy of resolution to be sent to Minister

(14) The board or committee that passes a resolution under subsection 11 shall forthwith send a copy thereof to the Minister. 1967, c. 93, s. 1 (5).

School sites for a combined board

(15) A board of a combined separate school zone may, without the approval of the supporters, acquire a school site in any school section in which a separate school was formed and which became part of the combined separate school zone. 1962-63, c. 132, s. 5 (3), *part*.

Electors' qualifications, urban combined separate school zone

(16) Every person,

(*a*) who resides in an urban municipality in an urban combined separate school zone and is entitled to vote at the election of trustees under section 46; or

(*b*) who resides in a township or territory without municipal organization in an urban combined separate school zone and would be entitled to vote at the election of trustees under section 28 if the combined separate school were a rural separate school,

is entitled to vote at the election of trustees of the combined separate school and on any school question.

Electors' qualifications, rural combined separate school zone

(17) Every person who resides in a rural combined separate school zone and is entitled to vote at the election of trustees under section 28 is entitled to vote at the election of trustees of the combined separate school and, subject to subsection 2 of section 28, on any school question. 1965, c. 122, s. 6 (3).

35.—(1) Where a petition of ten heads of families, being householders or freeholders who are supporters of a combined separate school, to detach a separate school from the combined separate school is submitted in any year to the combined separate school board, the board shall provide for a vote on the question within ninety days of the receipt of the petition. 1961-62, c. 132, s. 5, *part*. Detaching school from combined school

(2) The persons entitled to vote on the question are the supporters of the combined separate school who reside closer to the centre in the portion of the combined separate school zone that it is proposed to detach than to any other centre. 1962-63, c. 132, s. 6. Qualified voters for detaching a separate school from a combined separate school

(3) If, before the 1st day of July in any year, a majority of the supporters who are entitled to vote on the question vote in favour of detaching the school, it is detached on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be detached on the day of nomination for trustees, and the requisite number of trustees of the separate school so detached shall be elected as provided in section 29 or 43, as the case may be. 1961-62, c. 132, s. 5, *part*; 1964, c. 108, s. 4; 1967, c. 93, s. 2. When school detached

(4) Where a school or schools is or are detached under this section, subsections 2 and 3 of section 37 apply *mutatis mutandis*, except that the combined separate school board and the board or boards of the school or schools detached shall each appoint an arbitrator. 1961-62, c. 132, s. 5, *part*. Adjustment of assets, etc.

36.—(1) The board of a rural separate school zone has power to select a site for a new schoolhouse or to agree upon a change of site for an existing schoolhouse, and shall forthwith call a special meeting of the supporters of the school to consider the site selected, and no site shall be adopted or change of school site made except in the manner hereinafter provided without the consent of the majority of such special meeting. R.S.O. 1960, c. 368, s. 33 (1); 1966, c. 143, s. 6. Selection or change of school site

(2) If a majority of the supporters present at the special meeting differ as to the suitability of the site selected, each party shall then and there appoint an arbitrator, and the supervisory officer of separate schools for the district in which the school is situate, or, in case of his inability to act, a person appointed by him to act on his behalf, shall be the third arbitrator, and the three arbitrators, or a majority of them present at any lawful meeting, have authority to make and publish an award upon the matter submitted to them. Arbitration when trustees and ratepayers differ as to site

(3) With the consent or at the request of the parties to the reference the arbitrators, or a majority of them, have authority, Reconsideration of award

within one month from the date of their award, to reconsider the award and within two months thereafter to make and publish a second award, which award, or the previous one if not reconsidered by the arbitrators, is binding upon all parties concerned for at least five years from the date thereof. R.S.O. 1960, c. 368, s. 33 (2, 3).

Establishment of separate school in a portion of rural section

37.—(1) Where a separate school has been established in a school section that includes an urban municipality or a portion of an urban municipality, and a township or a portion of a township, and a majority of the ratepayers assessed as separate school supporters in the township or portion of a township petition the board of the separate school to notify the supervisory officer of separate schools that the separate school supporters in the township or portion of a township are desirous of establishing a separate school therein, the supervisory officer may signify in writing to the board his approval of the establishment of the separate school, and thereupon a meeting may be held for the establishment of a separate school and the election of trustees, and the school may be established and trustees may be elected in the manner provided by this Part.

Arbitration

(2) The supervisory officer and two other persons, one of whom shall be chosen by the separate school board of the urban municipality and the other by the board of the separate school so established in the township or portion of a township, shall constitute a board of arbitrators who, or a majority of whom, shall determine what proportion of the assets and liabilities of the original separate school board shall belong to, be paid to or be borne by the separate school board of the urban municipality and the board of the rural separate school respectively, and shall adjust all matters consequent upon the separation, and the award of the arbitrators is final and binding.

Property liable for debentures

(3) Nothing in this section relieves any property from liability for rates levied or to be levied for payment of school debentures issued prior to the establishment of the township separate school. R.S.O. 1960, c. 368, s. 34, *amended*.

URBAN BOARDS

Election of trustees in urban municipalities by general vote

38.—(1) Except as provided in section 39, the trustees of an urban separate school board shall be elected by general vote for a term of two years with one-half of the trustees retiring each year. 1960-61, c. 94, s. 4, *part*.

Number of trustees

(2) The number of the trustees on the urban separate school board shall be determined by the population of the municipality as shown by the municipal census for the year preceding the year in which the election is held, as follows, where the population was,

(*a*) less than 10,000, six trustees;

(*b*) 10,000 or more but less than 50,000, eight trustees;

(*c*) 50,000 or more but less than 100,000, ten trustees;

(*d*) 100,000 or more, twelve trustees. 1960-61, c. 94, s. 4, *part*; 1967, c. 93, s. 3 (1).

Change in number of trustees

(3) Where it becomes evident from the census of a municipality that the number of trustees on an urban separate school board should be increased or decreased, at the next election of trustees the proper number of trustees shall be elected. 1960-61, c. 94, s. 4, *part*; 1967, c. 93, s. 3 (2), *amended*.

Urban municipality divided into wards

39.—(1) An urban separate school board for an urban municipality that is divided into wards may be composed of two trustees for each ward, one of whom shall retire each year, elected by the separate school supporters of that ward.

Where five or more wards

(2) An urban separate school board for an urban municipality that is divided into five or more wards may be composed of one trustee for each ward elected by the separate school supporters of that ward for a term of two years.

Change from election by wards to general vote

(3) The composition and election of an urban separate school board that is elected as provided in subsection 1 or 2 may be changed to that provided in section 38. 1961-62, c. 132, s. 6.

Method of changing composition and election of board

40.—(1) The composition and election of an urban separate school board for an urban municipality that is divided into wards may be changed from the composition and election mentioned in any one of the subsections in section 39 to that provided in any other subsection in that section, provided that the resolution of the board for a change has been submitted to the supporters of the separate schools of the urban municipality and has received the affirmative vote of a majority of the supporters who voted on the resolution. 1961-62, c. 132, s. 7.

Election of new board after change

(2) At the election following an affirmative vote of a majority of the separate school supporters who voted on the resolution, the proper number of trustees shall be elected, and the trustees then in office shall continue in office until the new board is elected.

Limitation on changing method of election

(3) A change in the method of election of an urban separate school board may not be made unless the board has been elected in its present form for a period of four years. 1960-61, c. 94, s. 4, *part*.

Determination of retirement of trustees

41. At the first election of the trustees of an urban separate school board and at the first election of trustees held after a change in the composition of the board, where one-half of the trustees of the board are to retire at the end of the first year,

(*a*) in the case of an election by general vote, the elected trustees who received the lowest number of votes shall retire at the end of the first year; and

(*b*) in the case of an election by wards, the elected trustee who received the lowest number of votes in each ward shall retire at the end of the first year,

and in the case of a tie vote or of an acclamation, the order of retirement shall be determined by lot at the first meeting of the board and recorded in the minutes of the meeting. 1960-61, c. 94, s. 4, *part*.

Term of office

42. A trustee shall continue in office until his successor is elected and the new board is organized. R.S.O. 1960, c. 368, s. 37, *amended*.

Voting to be by ballot

43.—(1) Subject to section 44, the voting for the election of trustees of an urban separate school board and for all urban school purposes shall be by ballot.

Voters' list for urban school zone

(2) Within three days of a request in writing of the board of an urban separate school zone, the clerk of the urban municipality shall furnish to the board,

(*a*) where the municipality is divided into wards, the voters' list of each ward; or

(*b*) where the municipality is not divided into wards, the voters' list of each polling subdivision in the municipality,

indicating the names of all persons thereon who are separate school supporters.

Where zone includes urban municipality and part of another municipality

(3) Where an urban separate school zone includes an urban municipality and part of another municipality,

(*a*) within three days of a request in writing of the board of the urban separate school zone, the clerk of the other municipality shall furnish to the board a list of voters of the part of the municipality included in the urban separate school zone, indicating the names of all persons thereon who are separate school supporters; and

(*b*) a person who is entitled to vote at the election of trustees of the board and who resides outside the urban municipality is entitled to vote in that ward or division of the urban municipality in which the school house is situate that is nearest to his place of residence.

Voters' list for combined separate school zone

(4) Within three days of a request in writing of a board of a combined separate school zone, the clerk of each municipality, all or part of which is included in the combined separate school zone,

shall furnish to the board a list of voters of the municipality or part indicating the names of all persons thereon who are separate school supporters. 1965, c. 122, s. 7, *part*.

Adoption of municipal elections

44.—(1) An urban separate school board may, by resolution passed between the 1st day of May and the 1st day of October in any year, require the vote for the election of trustees to be conducted in the same manner as municipal elections in the municipality in which the separate school is situate, or, in the case of a combined separate school zone that includes one or more urban municipalities, in the urban municipality that has the greatest population.

Discontinuation

(2) The board may in like manner discontinue the voting conducted in the manner of municipal elections.

When manner of voting may be changed

(3) Where the board requires the vote to be conducted in the same manner as municipal elections and elections are so held, no change in the mode of voting shall be made unless the board has been elected by the same mode for a period of four years.

Time and place, etc., of elections

(4) Where a resolution is passed in any year under subsection 1,

(*a*) the election of trustees in that year and in subsequent years shall be held at the same place and time and conducted by the same officers and in the same manner as municipal elections in the municipality in which the vote is to be conducted;

(*b*) the meeting of the supporters of the urban or combined separate school for the nomination of candidates shall be held on the same day as the meeting for the nomination of candidates for council;

(*c*) the board shall advertise in each of its schools the place and time of the nomination meeting, and the secretary of the board shall report the names of the nominees to the clerk of the municipality in which the vote is to be conducted;

(*d*) in the case of a combined separate school zone, the clerk of each municipality, all or part of which is included in the combined separate school zone, except the municipality in which the vote is to be conducted, shall furnish to the clerk of the municipality in which the vote is to be conducted a list of voters of the municipality or part included in the combined separate school zone, indicating the names of all persons thereon who are separate school supporters;

R.S.O. 1970, c. 284

(*e*) the provisions of *The Municipal Act* with respect to elections, except with respect to the nomination of

candidates, apply *mutatis mutandis*, except that the oath to be taken by a voter shall be in the form prescribed in clause *a* of section 45. 1965, c. 122, s. 7, *part*.

R.S.O. 1970, c. 284 to apply

45. Where the voting is to be by ballot, the provisions of *The Municipal Act* for and relating to holding the municipal elections, including those as to recount, secrecy of proceedings, offences and penalties, apply *mutatis mutandis*, except that,

Form of oath

(*a*) the oath to be taken by a voter shall be:

You swear that you are the person named (*or* intended to be named) in the list of voters now shown to you (*showing the list to the voter*);

That you are of the full age of twenty-one years;

That you are a Roman Catholic separate school supporter or that you are a Roman Catholic and the wife or husband of a Roman Catholic separate school supporter;

That you have not voted before at this election;

That you have not, directly or indirectly, received any reward or gift and do not expect to receive any for the vote which you tender at this election;

That you have not received anything, nor has anything been promised you, directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team or any other service connected with this election;

That you have not, directly or indirectly, paid or promised anything to any person either to induce him to vote or refrain from voting at this election;

So help you God;

Casting vote

(*b*) when the result of the polling is indecisive by reason of two or more candidates having an equal number of votes, all of them shall be notified of the first meeting of the board after the election, and the member of the board present at such meeting who is assessed for the largest sum on the last revised assessment roll shall, before the organization of the board, give a vote for one or more of such candidates so as to decide the election;

Duties of secretary

(*c*) the duties to be performed by the clerk shall be performed by the secretary; and

Substituted term

(*d*) the word "secretary" shall be substituted for the words "clerk" or "clerk of the municipality" wherever they occur. R.S.O. 1960, c. 368, s. 40; 1965, c. 122, s. 8.

Election of trustees, who may vote

46. In urban municipalities every person whose name is on the voters' list as entitled to vote at municipal elections and who is a supporter of separate schools for Roman Catholics, or who, being a Roman Catholic, is the wife or husband of a supporter of such separate schools, is entitled to vote at the election of trustees of the separate schools. R.S.O. 1960, c. 368, s. 41; 1965, c. 122, s. 9.

ELECTION IRREGULARITIES

47. No election is invalid by reason of non-compliance with the provisions of this Act as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of forms, or of any irregularity, if it appears that the election was conducted in accordance with the principles laid down in this Act, and that the non-compliance or mistake or irregularity did not affect the result of the election. R.S.O. 1960, c. 368, s. 42. No election to be invalid for want of compliance with Act where result not affected

CONTROVERTED ELECTIONS

48.—(1) A judge, if a complaint respecting the validity or mode of conducting the election of any trustee in any municipality within his county or district is made to him within twenty days after the election, shall receive and investigate the complaint, and shall thereupon within a reasonable time, in a summary manner, hear and determine the same. Investigation of complaints by judge

(2) The judge may by order cause the assessment rolls, collectors' rolls, poll books and any other records of the election to be brought before him, and may inquire into the facts on affidavit or by oral testimony, and may cause such persons to appear before him as he considers expedient, and may confirm the election or set it aside, or declare that some other candidate was duly elected. Powers of judge

(3) The judge may order a person found by him not to have been duly elected to be removed, and if the judge determines that any other person was duly elected, he may order him to be admitted, and if he determines that no other person was duly elected instead of the person removed, he shall order a new election to be held and shall report his decision to the secretary of the board. Order of judge

(4) The provisions of *The Municipal Act* as to bribery and undue influence apply, and, where the election is complained of on those grounds, the inquiry by the judge in reference thereto shall be by oral testimony only. R.S.O. 1960, c. 368, s. 43. Bribery and undue influence R.S.O. 1970, c. 284

BOARD MEETINGS

49. Special meetings of the board may be called by the chairman, and shall be called on the request in writing of two members of the board specifying the objects for which the meeting is to be held, which shall also be stated in the notice calling the meeting. R.S.O. 1960, c. 368, s. 44 (1). Special meetings

DUTIES AND POWERS OF TRUSTEES

50.—(1) It is the duty of every board and it has power, Duties of board:

(*a*) to appoint a secretary and a treasurer or a secretary-treasurer and one or more collectors, if requisite, of the appointment of officers

school fees or rate-bills, and the collector or collectors, and secretary and treasurer, or secretary-treasurer may be members of the board, and shall discharge duties, are subject to obligations and penalties, and have powers similar to those of like officers of the corporation of a municipality;

appointment of auditors

(*b*) to appoint annually on or before the 1st day of December an auditor or auditors;

accounts

(*c*) to lay all the accounts of the board before the auditors, together with the agreements, vouchers, contracts and books in its possession, and to afford the auditors all the information in its power as to the receipt and expenditure of school money;

to provide accommodation and teachers

(*d*) to provide adequate accommodation and legally qualified teachers for all children who have the right to attend a school operated by the board;

to acquire school sites

(*e*) to acquire or rent school sites and premises and build school buildings;

collection of rates

(*f*) where the board does not appoint a collector, to apply to the municipal council, on or before the 1st day of March in each year, for the levying and collection of all sums for the support of their schools, and for any other school purposes authorized by this Act to be collected from the supporters of the separate schools under the control of the board, laying before the council an estimate of such sums;

notice of names and addresses

(*g*) to give notice in writing to the Department, before the 15th day of January in each year, of the names and post office addresses of the trustees then in office and of the teachers employed by the board, and give reasonable notice in writing from time to time of any changes therein;

exemptions and notice thereof

(*h*) to exempt, in its discretion, from the payment of school rates wholly or in part, any indigent person, and to give notice of the exemption, when the school rate is collected by the municipal council, to the clerk of the municipality on or before the 1st day of February;

possession and custody of property

(*i*) to take possession and have the custody and safe keeping of all school property, acquired or given for school purposes, and to acquire and hold as a corporation, by any title whatsoever, land, movable property, money or income given to or acquired by the board at any time for school purposes and hold or apply the same according to the terms on which it was acquired or received; and to dispose by sale or otherwise of any

school site or school property not required in consequence of a change of school site or other cause, and to convey the same and apply the proceeds thereof to school purposes or as provided by this Act;

(*j*) to exercise all such other powers and perform all such other duties of public school boards as are applicable to the case of separate schools, except as to matters as to which other provision is made by this Act. R.S.O. 1960, c. 368, s. 45 (1); 1968, c. 125, s. 3; 1968-69, c. 117, s. 1. other powers and duties

(2) It is the duty of every urban board and it has power to appoint from its members annually, or oftener if considered expedient, and under such regulations as may be considered proper, a committee of not more than three for the special charge, oversight and management of each school within the city, town or village, and to see that all the schools under its charge are conducted according to the regulations. R.S.O. 1960, c. 368, s. 45 (2). Appointment of committees by urban boards

(3) It is the duty of every rural board and it has power, Duties of rural boards:

(*a*) to appoint the place of each annual school meeting of the supporters of the school, and the time and place of any special meeting for, time and place of meetings

(i) filling any vacancy in the board,

(ii) the selection of a new school site,

(iii) the appointment of a school auditor, or

(iv) any other school purpose,

and to cause notices of the time and place and of the objects of such meetings to be posted in three or more public places of the neighbourhood in which the school is situate at least six days before the time of holding the meeting;

(*b*) to arrange for the payment monthly of teachers' salaries; payment of salaries

(*c*) to cause to be prepared and read at the annual school meeting a report for the year then ending, containing among other things a summary of the proceedings of the board during the year, together with a full and detailed account of the receipts and expenditures of all school money during such year, and signed by the chairman and by one or both of the school auditors; annual report

(*d*) to ascertain and report to the Minister, at least once in each year, the names and ages of all children of school age who would otherwise be required to attend a school under its charge, who are deaf or blind; report on deaf or blind

providing attendance for minor surgical operations

(*e*) if considered expedient, to provide for surgical treatment of children attending the school suffering from minor physical defects where, in the opinion of the teacher and (where a school nurse and medical inspector are employed) of the nurse and medical inspector, the defect interferes with the proper education of the child, and to include in their estimates for the current year the funds necessary for cases where the parents are not able to pay. R.S.O. 1960, c. 368, s. 45 (3); 1964, c. 108, s. 5.

Agreements to provide administrative accommodation or sharing of teachers, etc.

51. A separate school board may enter into an agreement with any other separate school board to provide for the other board,

(*a*) accommodation for administrative purposes, or

(*b*) the services of a psychiatrist, psychologist or teacher. 1966, c. 143, s. 8.

VACANCY IN OFFICE OF TRUSTEE

Vacancy in office of trustee

52.—(1) If a vacancy in the office of trustee for a rural school occurs from any cause the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person thereupon elected shall hold his seat for the residue of the term for which his predecessor held office.

Proceedings at new election

(2) The new election shall be conducted in the same manner and is subject to the same provisions as an annual election. R.S.O. 1960, c. 368, s. 46.

Vacancies in urban boards and union boards

(3) Subject to subsection 5, where a vacancy occurs from any cause in an urban separate school board or a combined separate school board and the remaining trustees constitute a majority of the membership of the board, a majority of the remaining trustees shall, at the first regular meeting after the vacancy occurs, elect some qualified person to fill the vacancy and the person so elected shall hold office for the remainder of the term for which his predecessor was elected, and in the case of an equality of votes the chairman of the meeting has a second or casting vote.

Idem

(4) Subject to subsection 5, where a vacancy occurs from any cause in an urban separate school board or a combined separate school board and the remaining trustees do not constitute a majority of the membership of the board, a new election shall be held to fill the vacancies, and every member so elected shall hold office for the remainder of the term for which his predecessor was elected, and, where at any such election any vacancy is for a longer term than the remaining vacancy or vacancies, the candidate having the largest number of votes at the election shall fill the vacancy for the longer term, and in the case of a tie the secretary of the board shall determine the order of retirement by lot.

(5) In the case of an urban separate school board or a combined separate school board, Idem

(*a*) any vacancy that occurs within one month before the next ensuing election shall not be filled in the manner provided by subsection 3 or 4, but the office shall remain vacant until the election, and, if the term of the vacant office then expires, a new trustee shall be elected or, if the term does not then expire, some duly qualified person shall be elected at the election to fill the vacancy for the remainder of the term;

(*b*) any vacancy that occurs after the election but before the new board is organized shall be filled immediately after the new board is organized in the manner provided in subsection 3 or 4, as the case may be;

(*c*) where there are a number of vacancies and the vacancies are for terms of different lengths, the vacancies for the longer terms shall be filled by the candidates having the most votes;

(*d*) where the number of candidates who are nominated is the same as the number of vancancies, and the terms differ, the secretary of the board shall determine the order of retirement by lot. 1960-61, c. 94, s. 5.

RATES, BORROWING POWERS AND GRANTS

53.—(1) Every person paying rates in a separate school zone on property that he occupies as owner or tenant or on unoccupied property that he owns, who by himself or his agent, on or before the 30th day of September in any year, gives to the clerk of the municipality notice in writing that he is a Roman Catholic and that he wishes to be a separate school supporter, is exempt from the payment of all rates imposed on such property in the separate school zone for the support of public schools or for the purchase of land or the erection of buildings for public school purposes for the following year and every subsequent year while he continues to be a separate school supporter with respect to such property. 1962-63, c. 132, s. 7, *part*. Exemption of supporters from public school rates

(2) The notice is not required to be renewed annually. R.S.O. 1960, c. 368, s. 47 (2). No renewal required

(3) Any person who is a Roman Catholic and resident on a parcel of land that is within a separate school zone may be a separate school supporter in that zone. Who may be supporters of separate school

(4) Any person who, if resident in a separate school zone, would be entitled to be a supporter of a separate school, on giving the notice provided in *The Assessment Act* that he is the owner of unoccupied land situate therein, may direct that all such land in Rights of non-residents to be assessed for separate school R.S.O. 1970, c. 32

the separate school zone shall be assessed for the purposes of the separate school. 1962-63, c. 132, s. 7, *part*.

Certificate of notice

(5) Every clerk of a municipality, upon receiving the notice, shall deliver a certificate to the person giving the notice to the effect that the notice has been given and showing the date thereof.

Penalty for wilful false statements in notice

(6) Any person who fraudulently gives such notice, or wilfully makes any false statement therein, does not thereby secure any exemption from the rates, and in addition is guilty of an offence and on summary conviction is liable to a fine of $40.

As to rates imposed before separate school established

(7) Nothing in this section exempts any person from paying any rate for the support of public schools, or public school libraries, or for the erection of a schoolhouse or schoolhouses, imposed before the establishment of the separate school. R.S.O. 1960, c. 368, s. 47 (4-6).

Boundaries of zones

54.—(1) The boundaries of separate school zones shall be determined in relation to their centres.

Centre of zones

(2) Where a board operates a separate school, the centre of the separate school zone is the most northern corner astronomically of the site of the separate school provided that, where the most northern boundary of the site has a bearing of due west astronomically, the corner of the site at the western extremity of the most northern boundary is the centre.

Centres where two or more schools

(3) Where a board operates two or more separate schools, there shall be a centre for each school.

Centre where board owns land but does not operate school

(4) Where a board does not operate a school but owns one parcel of land, for the purpose of determining the centre of the separate school zone, the board shall be deemed to operate a school on such parcel of land. 1962-63, c. 132, s. 8, *part*.

Centre where board does not operate school or own site

(5) Where a board does not operate a separate school or own a parcel of land, a parcel of land approved by the supporters for the purpose of determining the centre of the zone shall be deemed to be the site of a separate school for such purpose, and the board shall notify the Minister and the clerks of the municipalities concerned and the secretaries of boards of school sections affected in territory without municipal organization before the 30th day of September of the year in which the parcel was so approved. 1962-63, c. 132, s. 8, *part*; 1967, c. 93, s. 5 (1).

Centres of combined zone

(6) The centres of a combined separate school zone are the centres determined in respect of each school site on which a school is operated and include the centre of each former zone that became part of the combined separate school zone and in which a separate school is not operated.

Rural and combined separate school zones

(7) Subject to section 55, every parcel of land that is wholly or partly within a radius of three miles from a centre of a separate school zone is within the zone. 1962-63, c. 132, s. 8, *part*.

Urban separate school zone

(8) Subject to section 55, where a separate school board is established in an urban municipality, the urban separate school zone includes the urban municipality and any parcel of land that is within a radius of three miles from a centre in the urban municipality and that is within an urban municipality in which a separate school board has not been established or within a township. 1964, c. 108, s. 6.

In wards

(9) Where a separate school board has heretofore been established for a ward in a municipality, the board is continued until dissolved under this Act, and the separate school zone under the jurisdiction of the board includes any parcel of land within the ward.

Zones not to include organized and unorganized territory

(10) A separate school zone, except a combined separate school zone, shall not include land in a municipality as well as land in territory without municipal organization. 1962-63, c. 132, s. 8, *part*.

Separate school supervisory officer to prepare maps and descriptions of zones

(11) For each separate school zone that includes part or all of a township or territory without municipal organization, the supervisory officer of the separate school designated by the Minister shall,

(*a*) prepare maps of each township in which part or all of a separate school zone is located showing the boundary of each separate school zone therein or partly therein;

(*b*) describe each zone by indicating the name of the board, the centres in the zone, and the municipalities wholly or partly within the zone;

(*c*) where the boundary of a zone is altered, prepare a revised map and description;

(*d*) sign and date the original maps and description of each zone and retain them on file; and

(*e*) furnish,

(i) to each separate school board, a map or description of its zone,

(ii) to the township clerk and assessor or assessment commissioner, a map showing the zone boundaries and a description of each zone, and

(iii) to the supervisory officer of each public school, a description of each separate school zone within his jurisdiction. 1962-63, c. 132, s. 8, *part*; 1967, c. 93, s. 5 (2), *amended*.

Arbitrate assets and liabilities

(12) When a separate school zone is established and the boundary of an adjoining separate school zone is thereby altered, the board concerned shall, in the manner provided in section 37, appoint arbitrators who shall determine the assets and liabilities of the boards and the amounts, if any, that shall be paid by one board to the other board, and the award of the arbitrators is final and binding. 1962-63, c. 132, s. 8, *part*.

Rates in unorganized territory in combined zone

(13) Where a combined separate school zone includes a former zone in territory without municipal organization and a former zone in a municipality, the combined separate school board is responsible for the levying and collecting of rates for separate schools in the territory without municipal organization and the board and the council of the municipality may enter into an agreement providing for the officers of the municipality to levy and collect rates for separate schools in such territory without municipal organization. 1962-63, c. 132, s. 8, *part*; 1968, c. 125, s. 4, *amended*.

Boundaries where zones overlap in township, etc.

55.—(1) Where two or more separate school zones would otherwise overlap in a township or in territory without municipal organization, the appropriate supervisory officer shall, after he has consulted with the boards involved, determine a boundary between each of the zones in the township or territory.

When alteration effective

(2) A boundary in the overlapping area may be altered before the 1st day of July in any year, and such alteration shall be effective on the 1st day of January of the following year, except that, for the purposes of the election of trustees, it shall be deemed to be effective on the day of nomination for trustees.

Appeal

(3) A separate school board or a separate school supporter affected by the determination of the supervisory officer may appeal the determination to the judge before the 1st day of August following the determination. 1964, c. 108, s. 7, *amended*.

All parts of zone to be adjoining

(4) The boundaries of a separate school zone as determined by the supervisory officer or altered by a judge shall follow one continuous line so that all parts of the zone are adjoining. 1965, c. 122, s. 10, *amended*.

Effect of change in boundaries

(5) Where a change in the boundary of a separate school zone under this section results in the transfer of a parcel of land from one zone to another zone, the taxes levied and collected for separate school support in respect of such parcel of land, in the year following the determination by the supervisory officer or judge, shall be paid to the separate school board of the zone to which the parcel of land is transferred. 1962-63, c. 132, s. 8, *part*, *amended*.

Discontinuing board by a vote of the supporters

56.—(1) A separate school board or five supporters of a separate school may, before the 1st day of July in any year, hold a meeting of the separate school supporters to consider the question of discontinuing the separate school board, and, where the majority of the supporters vote in favour of discontinuing and fewer than five supporters vote in opposition, the board shall within thirty days notify the Minister, the supervisory officer of the separate school, the clerk of each municipality concerned and the public school supervisory officer, for any school board that may be affected thereby, and, for assessment purposes, the zone shall be discontinued on the 30th day of September following the meeting.

Other conditions under which a separate school board is discontinued

(2) A separate school board is discontinued on the 31st day of December in any year,

(*a*) if, before the 30th day of September in the year in which the board is established, the board fails to secure the approval of the supporters for a parcel of land for a site of a schoolhouse or for a centre of its zone; or

(*b*) if, for any school term after the year in which the board was established, the board,

(i) fails to operate a school, or

(ii) fails to make an agreement with another separate school board for the education of its pupils and fails to provide transportation for the pupils who would otherwise be excused from attendance under clause *c* of subsection 2 of section 6 of *The Schools Administration Act*; or

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(*c*) if no one is assessed as a supporter in the separate school zone on the assessment roll on which taxes are to be levied in the following year; or

(*d*) if the supporters fail to elect the required number of trustees in two successive annual or biennial elections, as the case may be.

Supervisory officer to notify Minister, etc.

(3) When a board is discontinued under subsection 2, the supervisory officer of the separate school shall forthwith notify the Minister, the separate school board concerned, the clerks of the municipalities concerned and the supervisory officers of the public school boards affected thereby.

Settling accounts

(4) The trustees who are in office in the year in which the board is discontinued under this section shall remain in office for the purpose of settling the accounts and outstanding debts of the board and, following an audit by a person licensed by the Department of Municipal Affairs as a municipal auditor, shall forward the balance of its funds to the Minister for deposit in the Consolidated Revenue Fund for safekeeping.

Records

(5) The records of a board that has been discontinued under this section shall be filed in the office of the supervisory officer of the separate school.

Revision of boundaries

(6) The supervisory officer of the separate school shall revise the boundaries of the zones that are altered as a result of discontinuing a separate school board.

Sale of real property

(7) Where a board that has been discontinued fails to dispose of its real property in the year in which it was discontinued and the supervisory officer of the separate school is notified that an offer to purchase the real property has been made, the supervisory officer shall cause notices to be posted to call a meeting of the persons who were supporters in the year in which the board was discontinued to elect three persons who, when elected, are a board for the purpose of selling the property.

Deposit of funds from sale

(8) When the board has sold the real property, it shall, after paying any outstanding debts, forward the balance of the money received from the sale to the Minister for deposit in the Consolidated Revenue Fund for safekeeping.

Re-establishing a board

(9) A separate school board that has been discontinued in any year may, in any subsequent year, be re-established in the school section in which the separate school was established in the manner provided in sections 18 to 21 or section 22, and the funds that were deposited by the board that was discontinued shall be returned to the board. 1962-63, c. 132, s. 8, *part*.

Where person residing out of urban municipality to vote

57. When a supporter of a separate school in an urban municipality resides outside the municipality, he is entitled to vote in the ward or polling subdivision in which the separate school nearest to his residence is situate. 1962-63, c. 132, s. 9.

Liability of non-resident supporter

58.—(1) Where a person is entitled to be and is a supporter of a separate school situate in a municipality other than that in which he resides he is exempt from the payment of separate school taxes or rates in the municipality in which he resides, but is liable to pay and shall pay the school taxes or rates to the board of the school of which he is a supporter, and the same shall be based upon his assessment in the municipality in which he resides.

How enforceable

(2) The board of the school of which he is a supporter shall on or before the 1st day of August in each year notify the clerk of the municipality in which such supporter resides that he is a supporter of such school, and the amount of the school taxes or rates payable by him, and the same shall be entered upon the collector's roll of the municipality for that year and collected in like manner as other taxes, and when collected shall be paid over to the board. R.S.O. 1960, c. 368, s. 51.

59.—(1) A Roman Catholic who desires to withdraw his support from a separate school shall, on or before the 30th day of September in any year, give notice in writing that he desires to withdraw his support for the following year, Notice of withdrawal of support

(*a*) where the separate school is situated in a municipality, to the clerk of the municipality; or

(*b*) where the separate school is situated in territory without municipal organization,

(i) if he resides in a school section, to the secretary of the public school board of the section and to the secretary of the separate school board, or

(ii) if he does not reside in a school section, to the secretary of the separate school board,

otherwise he shall be deemed to be a supporter of the separate school. 1961-62, c. 132, s. 8; 1964, c. 108, s. 8.

(2) A person who has withdrawn his support from a Roman Catholic separate school is not exempt from paying rates for the support of separate schools or separate school libraries, or for the erection of a separate schoolhouse, imposed before the time of his withdrawing such support. R.S.O. 1960, c. 368, s. 53 (2). Exception

60.—(1) The clerk of every municipality shall keep entered in an index book (Form 1) and in alphabetical order, the name of every person who has given to him, or to any former clerk of the municipality, notice in writing that such person is a Roman Catholic and a supporter of a separate school in or contiguous to the municipality, as provided by sections 53, 63 and 64, or by former Acts respecting separate schools. R.S.O. 1960, c. 368, s. 54 (1). Clerk to keep index book

(2) The clerk shall enter opposite the name, in a column for that purpose, the date on which the notice was received, and in a third column opposite the name any notice by such person of withdrawal from supporting a separate school, as provided by section 59, or by any such other Act, with the date of the withdrawal, or any disallowance of the notice by the Assessment Review Court, by a judge, by the Ontario Municipal Board or by the Court of Appeal, with the date of the disallowance. R.S.O. 1960, c. 368, s. 54 (2), *amended*. Entries

(3) The index book shall be open to inspection by any ratepayer. Inspection

(4) The clerk shall file and carefully preserve all such notices heretofore or hereafter received. Filings

(5) The assessor shall be guided by the entries in the index book in ascertaining who have given the prescribed notices. R.S.O. 1960, c. 368, s. 54 (3-5). Assessor to be guided by index book

Correction of mistakes in assessing

61.—(1) If it appears to the council of any municipality after the final revision of the assessment roll that through mistake or inadvertance a ratepayer has been entered on the roll either as a supporter of separate schools or as a supporter of public schools the council after due inquiry and notice may correct the error by directing the school taxes of the ratepayer to be paid to the proper school board; but it shall not be competent for the council to reverse the decision of the Assessment Review Court, a judge, the Ontario Municipal Board or the Court of Appeal on appeal. R.S.O. 1960, c. 368, s. 55 (1), *amended*.

Liability

(2) In case of such action by a council the ratepayer is liable for the same amount of school taxes as if he had in the first instance been properly entered on the roll. R.S.O. 1960, c. 368, s. 55 (2).

Distinguishing the school rates

62.—(1) The clerk of every municipality, in making out the collector's roll, shall place columns therein so that under the heading of "School Rate" the public school rate may be distinguished from the separate school rate, and that under "Special Rate for School Debts" public school purposes may be distinguished from separate school purposes.

Idem

(2) The proceeds of any such rate shall be kept distinguished by the collector and accounted for accordingly. R.S.O. 1960, c. 368, s. 56.

Case of owner and occupant

63.—(1) Where land is assessed against both owner and occupant, or the owner and tenant, the occupant or tenant shall be deemed to be the person primarily liable for the payment of school rates and for determining whether those rates shall be applied to public or separate school purposes, and no agreement between the owner or tenant as to the payment of taxes as between themselves alters or affects this provision.

When owner may exercise option

(2) Where, as between the owner and tenant or occupant, the owner is not to pay taxes, if by the default of the tenant or occupant to pay the same, the owner is compelled to pay such school rate, he may direct the same to be applied to either public or separate school purposes, and if the public school rate and the separate school rate are not the same he is only liable to pay the amount of the rate of the schools to which he directs his money to be paid. R.S.O. 1960, c. 368, s. 57.

Right of corporation to support separate schools

64.—(1) A corporation by notice (Form 2) to the clerk of any municipality wherein a separate school exists may require the whole or any part of the land of which the corporation is either the owner and occupant, or not being the owner is the tenant, occupant or actual possessor, and the whole or any proportion of the business assessment or other assessments of the corporation made under *The Assessment Act*, to be entered, rated and assessed for the purposes of the separate school.

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(2) The assessor shall thereupon enter the corporation as a separate school supporter in the assessment roll in respect of the land and business or other assessments designated in the notice, and the proper entries shall be made in the prescribed column for separate school rates, and so much of the land and business or other assessments so designated shall be assessed accordingly for the purposes of the separate school and not for public school purposes, but all other land and the remainder, if any, of the business or other assessments of the corporation shall be separately entered and assessed for public school purposes. Duty of assessor

(3) Unless all the stock or shares are held by Roman Catholics the share or portion of such land and business or other assessments to be so rated and assessed shall not bear a greater proportion to the whole of such assessments than the amount of the stock or shares so held bears to the whole amount of the stock or shares. R.S.O. 1960, c. 368, s. 58 (1-3). How proportions settled

(4) A notice given in pursuance of a resolution of the directors is sufficient and shall continue in force and be acted upon until it is withdrawn, varied or cancelled by a notice subsequently given pursuant to any resolution of the corporation or of its directors, except that, upon appeal, if it is ruled that the notice is not a proper notice, it is void, and the clerk shall so notify the corporation and mark the notice accordingly. R.S.O. 1960, c. 368, s. 58 (4); 1962-63, c. 132, s. 11. Effect of notice

(5) Every notice so given shall be kept by the clerk on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect an assessment roll. Filing notice

(6) The assessor shall in each year, before the return of the assessment roll, search for and examine all notices that may be so on file and shall follow and conform thereto and to the provisions of this Act. R.S.O. 1960, c. 368, s. 58 (5, 6). Search for notices

65. Every separate school board in each year shall prepare and adopt estimates of all sums required during the year for separate school purposes and such estimates, Estimates

(*a*) shall set forth estimated revenues and expenditures of the board including debt charges payable by the board;

(*b*) shall make due allowance for a surplus of any previous year that will be available during the current year;

(*c*) shall provide for any deficit of any previous year; and

(*d*) may provide for a reserve for working funds of a sum not in excess of 5 per cent of the expenditures of the board for the preceding year, but, where the sum accumulated in the reserve is equal to or more than 20 per cent of such expenditures, no further sum shall be provided.

Powers of trustees

66.—(1) The board of a separate school may impose and levy school rates and collect school rates and subscriptions upon and from persons sending children to or subscribing towards the support of such schools, and may appoint collectors for collecting the school rates or subscriptions who shall have all the powers in respect thereof possessed by collectors of taxes in municipalities.

Land on which there are rates uncollected

(2) If a collector appointed by the board is unable to collect any part of a school rate charged on land liable to assessment, by reason of there being no person resident thereon or no goods and chattels to distrain, the board shall make a return to the clerk of the municipality before the end of the then current year of such land and the uncollected rates thereon.

Return

(3) The clerk shall make a return to the county, city, town or village treasurer of such land and the arrears of separate school rates thereon.

Collection of rates

(4) The arrears shall be collected and accounted for by the treasurer in the same manner as the arrears of other taxes.

Deficiency

(5) The council of the township, village, town or city in which the separate school is situate shall make up the deficiency arising from such uncollected rates out of the general funds of the municipality. R.S.O. 1960, c. 368, s. 59.

Levy for costs for transportation and board and lodging of secondary school pupils not resident in secondary school district

67. Where some of the supporters of a separate school reside in a municipality or in territory without municipal organization and in a secondary school district and other supporters of the separate school reside in another municipality or in territory without municipal organization and not in a secondary school district, and the separate school board,

(*a*) provides daily transportation; or

(*b*) reimburses the parents or guardians for the cost of board, lodging, and transportation once a week under subsection 8 of section 42 of *The Schools Administration Act*,

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for secondary school pupils whose parents or guardians are separate school supporters who do not reside in the secondary school district, such separate school board may levy the cost of such transportation or reimbursement for the preceding year, less the legislative grants paid thereon, on the supporters who do not reside in the secondary school district. 1968-69, c. 117, s. 2.

Determining school rates by equalizing factor

68.—(1) Where a separate school zone includes territory in two or more municipalities, the board shall, when it is setting the rates to be levied in any year, use an equalizing factor for each municipality in the zone which, when applied to the local assessment of properties in a municipality, would increase or

decrease the local assessment on such properties to a sum equal to the local assessment on similar properties in the municipality in which the greatest number of its pupils reside.

Adoption of rate

(2) The board shall adopt a tax rate to be levied in the municipality in which the greatest number of its pupils reside and multiply that rate by the factor determined for each municipality in the zone, and the resulting rates calculated to the nearest tenth of a mill shall be the rates in the respective municipalities for separate school purposes in the zone.

Arbitrators, appointment

(3) For the purpose of determining the factors, the board shall appoint three arbitrators who are not trustees who shall meet and determine the factors.

Meeting

(4) The secretary of the board shall call the meeting of the arbitrators.

Determination of factors

(5) The arbitrators shall base their decision on a comparison of the local assessment on sample properties that are assessed to the support of the separate schools in the municipality in which the greatest number of its pupils reside with the local assessment on similar properties in the other municipalities in which any part of the separate school zone is situated, and the factors so determined shall be used by the board when it sets its rates at any time following the decision of the arbitrators and until the factors are altered by arbitration.

When factors to be determined

(6) The factors shall be determined,

(*a*) in the year in which the separate school is formed;

(*b*) in any year that is divisible evenly by 5;

(*c*) in any year in which the basis of assessing has been changed in any of the municipalities in which part of the separate school zone is situate; and

(*d*) in any year if the board so directs.

Appeal to board

(7) Five supporters of the separate school in the separate school zone or the majority of the supporters who reside in one municipality in the zone may, on or before the 1st day of November in any year, appeal to the board against the last determination of the factors, and the decision of the board is final.

Use of factors

(8) The factors determined in any year shall be used for the purposes of taxation in the following and subsequent years until the year following the next determination of the factors.

Cost of arbitration

(9) The cost of the arbitration shall be paid by the separate school board. 1962-63, c. 132, s. 12 (1-9).

Trustees may copy assessment roll of municipality

69. The clerk or other officer of a municipality within or adjoining which a separate school is established, having possession of the assessor's or collector's roll of the municipality, shall permit any trustee or the collector of the board to make a copy of the roll in so far as it relates to the persons supporting the separate school. R.S.O. 1960, c. 368, s. 60.

Clerk to give trustees annual statement of supporters of separate schools

70. The clerk of a municipality in which there is a separate school shall, once in each year, upon the written request of the board, deliver to it a statement in writing showing the names of all persons appearing upon the assessment roll for the current year who have given the notice required by section 53, with the amount for which each person has been rated upon the assessment roll. R.S.O. 1960, c. 368, s. 61.

Collection of separate school rates by the municipality

71.—(1) A municipal council, if so requested by the board on or before the 1st day of February in any year, shall, through its collectors and other municipal officers, cause to be levied in such year upon the taxable property liable to pay the same all sums of money for rates or taxes imposed thereon in respect of separate schools. R.S.O. 1960, c. 368, s. 62 (1); 1966, c. 143, s. 10.

Expenses of collection

(2) Any expenses attending the assessment, collection or payment of school rates by the municipal corporation shall be borne by the corporation, and the rates and taxes collected for separate school purposes shall be paid by the corporation to the treasurer of the board from time to time as may be required by the board and in any event not later than the 15th day of December in the year in which the rates are levied. 1965, c. 122, s. 11; 1967, c. 93, s. 6.

Sinking funds for separate school debentures

72. Notwithstanding anything contained in any by-law or resolution heretofore or hereafter passed by any board of separate school trustees or in any debenture issued thereunder, the board may at any time by by-law provide that all moneys theretofore or thereafter collected on account of sinking fund for payment of any such debenture shall,

(*a*) be paid over to the Treasurer of Ontario to be dealt with as provided in section 315 of *The Municipal Act*, being chapter 249 of the Revised Statutes of Ontario, 1960; or

(*b*) be invested in securities of the Province of Ontario and for that purpose the board may sell or dispose of any securities in which such sinking fund moneys have heretofore been invested or withdraw such moneys from any loan company, trust company or bank in which they may be deposited. R.S.O. 1960, c. 368, s. 65.

Borrowing powers of separate school trustees

73.—(1) The board of a separate school may pass by-laws for borrowing money, by mortgages or other instruments, upon the security of the schoolhouse property and premises and any other real or personal property vested in the board and upon the separate school rates for the purpose of paying the cost of school sites, school buildings or additions or repairs thereto or for any other school purposes, and any ratepayer, who was a separate school supporter in the separate school zone at the time when the loan was effected on the security of the property or rates or who became a supporter during the term of the loan, shall, while resident within the separate school zone, continue to be liable for the rate to be levied for the repayment of the money so secured. 1962-63, c. 132, s. 14.

Terms of payment

(2) The principal money may be made payable in annual or other instalments, with or without interest, and the board, in addition to all other rates or money that it may levy in any one year, may levy and collect in each year such further sum as may be requisite for paying all principal money and interest falling due in that year, and the same shall be levied and collected in each year in the same manner and from the like persons and property by, from, upon or out of which other separate school rates may be levied and collected.

Debentures

(3) Such mortgages and other instruments may in the discretion of the board be made in the form of debentures, and the debentures are a charge on the same property and the rates as in the case of mortgages thereof made by the board.

Maturity

(4) The debt to be so incurred and the debentures to be issued therefor may be made payable in thirty years at the furthest, and in equal annual instalments of principal and interest, or in any other manner authorized by *The Municipal Act* in the case of debentures issued under that Act. R.S.O. 1970, c. 284

Sinking fund

(5) Where the debt is not payable by instalments, the board shall levy in each year during its currency in addition to the amount required to pay the interest falling due in such year a sum such that the aggregate amount so levied during the currency of the debt, with the estimated interest on the investments thereof, will be sufficient to discharge the debt when it becomes payable, which shall be invested in the manner provided by *The Municipal Act* as to the investment of sinking funds. R.S.O. 1960, c. 368, s. 66 (2-5).

Publication of notice of by-law

(6) Before a by-law for borrowing money for a permanent improvement is acted upon, notice of the passing of the by-law shall be published for three consecutive weeks in a newspaper having general circulation within the separate school zone stating,

(*a*) the purpose for which the money is to be borrowed;

(*b*) the amount to be borrowed and the security therefor;

(*c*) the terms of repayment including the rate of interest,

and, if no application to quash the by-law is made for three months after publication of notice of the passing thereof, the by-law is valid notwithstanding any want of substance or form in the by-law or in the time or manner of passing the by-law. R.S.O. 1960, c. 368, s. 66 (6); 1965, c. 122, s. 12.

Amounts

(7) The debentures issued under the by-law may be for such amounts as the board considers expedient. R.S.O. 1960, c. 368, s. 66 (7).

Right of separate schools to a share of municipal grant

74.—(1) Every separate school is entitled to share in all grants, investments and allotments for public school purposes made by any municipal authority according to the average number of pupils attending the school during the next preceding twelve months, or during the number of months that may have elapsed from the establishment of a new separate school, as compared with the whole average number of pupils attending school in the same city, town, village or township.

Apportionment

(2) Where the grant is made by a county council it shall be apportioned in like manner as the legislative grant.

No share of local assessment for public schools

(3) A separate school is not entitled to share in any school money arising or accruing from local assessment for public school purposes within the city, town, village or township in which the school is situate. R.S.O. 1960, c. 368, s. 67.

MISCELLANEOUS

Visitors of separate schools

75. The Minister, the judges of all courts, members of the Assembly, heads of the municipal corporations in their respective localities, the supervisory officers of public schools and clergymen of the Roman Catholic Church are visitors of separate schools. R.S.O. 1960, c. 368, s. 68.

Inspection of schools

76. The schools with their registers are subject to such inspection as may be directed by the Minister and are subject also to the regulations. R.S.O. 1960, c. 368, s. 69.

Model schools

77. The Minister may, subject to the regulations, constitute a separate school in any county or district a model school for the training of teachers for separate schools. R.S.O. 1960, c. 368, s. 70.

Disagreement between trustees, supervisory officers, etc.

78. In the event of a disagreement between a board and the supervisory officer of public schools or any municipal authority or of a complaint against the election of a rural school trustee or against the establishment of a school in close proximity to an

existing school, or any other proceeding of a rural school meeting, signed by five supporters of the school concerned or of such existing school, the matter in difference shall be determined by the Minister, subject to an appeal to the Lieutenant Governor in Council, whose decision is final. R.S.O. 1960, c. 368, s. 71.

79. Except as otherwise provided, the fines imposed by or under the authority of this Act are recoverable under *The Summary Convictions Act* and shall be applied to such separate school purposes as the Minister may direct. R.S.O. 1960, c. 368, s. 73. Recovery and application of fines R.S.O. 1970, c. 450

PART III

County and District Combined Roman Catholic Separate School Boards

80.—(1) In this Part, Interpretation

(*a*) "city" includes a separated town;

(*b*) "county" includes a provisional county, and a united county;

(*c*) "county combined separate school board" means a separate school board established for a county combined separate school zone under this Part;

(*d*) "county combined separate school zone" means a union of the separate school zones whose centres are within an area that is designated by the regulations made under this Part and that includes separate school zones in that part of Ontario with county organization;

(*e*) "county municipality" means a municipality that forms part of a county for municipal purposes and includes a municipality, other than a city, that forms part of a regional municipality;

(*f*) "district combined separate school board" means a separate school board established for a district combined separate school zone under this Part;

(*g*) "district combined separate school zone" means a union of the separate school zones whose centres are within an area designated by the regulations made under this Part that is in the territorial districts;

(*h*) "district municipality" means a municipality, except a city, in a territorial district, and includes an area municipality as defined in *The District Municipality of Muskoka Act*; R.S.O. 1970, c. 131

R.S.O. 1970, c. 293

(*i*) "population" means the population as determined under *The Municipal Unconditional Grants Act*;

(*j*) "separate school supporter" in a combined separate school zone means,

(i) in a municipality, a person whose name is entered on the last revised voters' list as qualified to vote at the municipal elections of the municipality and appears thereon as a supporter of a separate school, and

(ii) in territory without municipal organization, a person who is of the full age of twenty-one years, a British subject and a Roman Catholic and whose name is entered on the last revised assessment roll for such territory as a supporter of a separate school. 1968, c. 125, s. 6, *part*; 1970, c. 64, s. 2.

Part of Ottawa-Carleton deemed county R.S.O. 1970, c. 407

(2) For the purposes of this Part, the area municipalities as defined in *The Regional Municipality of Ottawa-Carleton Act*, except the cities of Ottawa and Vanier and the Village of Rockcliffe Park, shall be deemed to be a county. 1968, c. 125, s. 6, *part, amended*.

Territory without municipal organization in zones deemed district municipalities

(3) For the purposes of this Part, every separate school zone that comprises only territory without municipal organization and whose centre is in an area designated by the regulations made under this Part and any part of territory without municipal organization that is part of a combined separate school zone whose centres are in an area designated by the regulations made under this Part shall be deemed to be a district municipality. 1968, c. 125, s. 6, *part*; 1968-69, c. 117, s. 3 (1).

Essex and York counties

R.S.O. 1970, c. 295

(4) For the purposes of this Part, the County of Essex does not include the City of Windsor, and the County of York does not include the area municipalities as defined in *The Municipality of Metropolitan Toronto Act*. 1968, c. 125, s. 6, *part*.

Application of ss. 87-89 to Windsor

(5) Sections 87, 88 and 89 apply *mutatis mutandis* to the City of Windsor and The Board of Trustees of the Roman Catholic Separate Schools for the City of Windsor. 1968-69, c. 117, s. 3 (2).

Powers and duties of combined board re territory without municipal organization

(6) The board of a district combined separate school zone that includes territory without municipal organization that is deemed a district municipality for the purposes of this Part shall exercise the powers and duties of a municipal council for such district municipality in respect of preparing estimates, levying rates, collecting taxes and issuing debentures for the purposes of the district combined separate school board and in respect of the election of members of such board, and all the officers appointed

by such board have the same powers and duties as similar officers in an organized municipality except that the provisions of subsections 7 to 11 of section 22 apply. 1968, c. 125, s. 6, *part*, *amended*.

Election in improvement district

(7) The trustees of an improvement district that forms part of a district combined separate school zone, in each year in which an election for members of the district combined separate school board is to be held, shall provide for such election in the improvement district in the same manner as for the election of trustees in a municipality, and the secretary-treasurer of the improvement district shall be the clerk and returning officer and has all the powers and shall perform all the duties of the clerk and returning officer of a municipality in relation to the preparation of a voters' list and the election of members of a district combined separate school board under *The Municipal Act* and *The Voters' Lists Act*, which apply *mutatis mutandis*. 1968, c. 125, s. 6, *part*.

R.S.O. 1970, cc. 284, 485

County and district combined separate school zones

81.—(1) On and after the 1st day of January, 1969, the separate school zones and the former separate school zones that form all or part of a combined separate school zone whose centres are within an area designated by the regulations made under subsection 2 are united to form a county or district combined separate school zone, as the case may be. 1968, c. 125, s. 6, *part*.

Regulations

(2) The Lieutenant Governor in Council may make regulations,

(*a*) designating areas in Ontario in which the separate school zones whose centres are within the areas are to be united to form county or district combined separate school zones and designating the names of the areas;

(*b*) altering the boundaries of any such area;

(*c*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Part. 1968, c. 125, s. 6, *part*; 1968-69, c. 117, s. 4.

Separate school zones established after Jan. 1, 1969

(3) Where the centre of a separate school zone established under section 21 on or after the 1st day of January, 1969, is within an area designated by the regulations made under subsection 2, the separate school zone shall forthwith become a part of the county or district combined separate school zone in that area. 1968, c. 125, s. 6, *part*.

Ottawa separate school zone

82.—(1) On and after the 1st day of January, 1970, the cities of Vanier and Ottawa and the Village of Rockcliffe Park are united to form a county combined separate school zone under this Part. 1968, c. 125, s. 6, *part*, *amended*.

Ottawa Board

(2) A separate school board shall be established for such combined separate school zone which shall be a corporation by the name of "The Ottawa Roman Catholic Separate School Board" and shall consist of sixteen trustees.

Number of trustees to be elected in Ottawa and Rockcliffe Park

(3) The number of trustees to be elected by the separate school supporters in the area comprising the City of Ottawa and the Village of Rockcliffe Park shall be equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying sixteen by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the City of Ottawa and the Village of Rockcliffe Park to the equalized residential and farm assessment of all the property rateable for separate school purposes in the combined separate school zone, and such trustees shall be elected by general vote. 1968, c. 125, s. 6, *part*.

Vanier

(4) The number of trustees to be elected by the separate school supporters in the City of Vanier shall be sixteen, less the number determined under subsection 3, and such trustees shall be elected by general vote. 1968, c. 125, s. 6, *part*; 1968-69, c. 117, s. 5 (1), *amended*.

Election of trustees, term of office

(5) Commencing in the year 1969, the trustees of The Ottawa Roman Catholic Separate School Board shall be elected at the same time and place and for the same term of office as the members of The Ottawa Board of Education, and the meeting for the nomination of candidates for the offices of trustees to be elected by the separate school supporters in the City of Ottawa and the Village of Rockcliffe Park shall be held by the returning officer of the City of Ottawa, and the clerk of the Village of Rockcliffe Park, forthwith after the election, shall report the vote recorded in his municipality to the clerk of the City of Ottawa who shall prepare the final summary and announce the vote.

Application of Part

(6) Except where inconsistent with this section, the other provisions of this Part in respect of county combined separate school boards apply *mutatis mutandis* to the board established under subsection 2, except that the references to the years 1968, 1969 and 1970, wherever they occur, shall be deemed to refer to the years 1969, 1970 and 1971 respectively. 1968-69, c. 117, s. 5 (2).

Carleton combined separate school zone

83.—(1) On and after the 1st day of January, 1969, the separate school zones and the former separate school zones that form all or part of a combined separate school zone whose centres are within an area municipality as defined in *The Regional Municipality of Ottawa-Carleton Act*, except the cities of Vanier and Ottawa and the Village of Rockcliffe Park, are united to form a county combined separate school zone. 1968, c. 125, s. 6, *part*, *amended*.

R.S.O. 1970, c. 407

(2) A separate school board shall be established for such county combined separate school zone which shall be a corporation by the name of "The Carleton Roman Catholic Separate School Board". Carleton Board

(3) The trustees of The Carleton Roman Catholic Separate School Board shall be elected at the same time and for the same term of office as the members of The Carleton Board of Education. Election of trustees, term of office

(4) Except as provided in this section, all the provisions of this Act respecting county combined separate school boards apply to The Carleton Roman Catholic Separate School Board. 1968, c. 125, s. 6, *part*. Application of Act to Carleton Board

84. A separate school board shall be established for each county and district combined separate school zone, and the trustees of the board shall be elected and the board organized in accordance with this Part. 1968, c. 125, s. 6, *part*. Establishment of boards

85.—(1) A county combined separate school board that has jurisdiction in an area that includes only one county is a corporation by the name of "The ..... County Roman Catholic Separate School Board" (*inserting the name of the county*). Name of board in one county

(2) A combined separate school board that has jurisdiction in an area that includes two or more counties is a corporation by the name of "The ..... County Roman Catholic Separate School Board" (*inserting the names of the counties or a name selected by the board and approved by the Minister*). Name of board in two or more counties

(3) A district combined separate school board that has jurisdiction in the territorial districts is a corporation by the name of "The ..... Roman Catholic Separate School Board" (*inserting the name of the area designated by the regulations*). 1968, c. 125, s. 6, *part*. Name of board in territorial districts

(4) Notwithstanding subsection 2 and 3 and except as provided in sections 82 and 83, a combined separate school board that has jurisdiction in all or part of a regional municipality is a corporation by the name of "The ..... Roman Catholic Separate School Board" (*inserting a name selected by the board and approved by the Minister*). 1968-69, c. 117, s. 6. Name of board in regional municipality

86.—(1) Upon the establishment of a county or district combined separate school zone, Assets, liabilities, etc.

(*a*) all separate school boards that have jurisdiction in separate school zones united to form the county or district combined separate school zone are dissolved;

(*b*) subject to subsection 3, all property vested in such boards and situate in the county or district combined separate school zone becomes vested in the county or district combined separate school board;

(*c*) all debts, contracts, agreements and liabilities for which such boards were liable, except employment contracts with teachers, become obligations of the county or district combined separate school board as determined by the arbitrators under subsections 2 and 3;

(*d*) the reserve for working funds, the balance in a reserve or a reserve fund accumulated from transfers from revenue funds and the audited surplus or deficit as at the 31st day of December, 1968, of each such board shall accrue to the credit of, or become the responsibility of, the assessment supporting such board on the 31st day of December, 1968, and shall be apportioned by the arbitrators under this section among the municipalities or parts thereof comprising the area of jurisdiction of such board in the same proportion as the requisition for the year 1968 was apportioned among such municipalities or parts;

(*e*) the employment contract of every teacher who, immediately before the 1st day of January, 1969, was required to teach only in one or more schools included in the county or district combined separate school zone becomes an obligation of the county or district combined separate school board; and

(*f*) the employment contract of every teacher, who immediately before the 1st day of January, 1969, was required to teach in one or more schools in the county or district combined separate school zone and in one or more schools in one or more other county or district combined separate school zones becomes an obligation of such combined separate school board as is provided by the arbitrators under subsection 3. 1968, c. 125, s. 6, *part*; 1968-69, c. 117, s. 7 (1, 2).

Arbitration

(2) Each county or district combined separate school board shall, on or before the 15th day of March, 1969, appoint three arbitrators who are not trustees of the board or members of a municipal council that has jurisdiction within the county or district combined separate school zone, who shall value and adjust in an equitable manner the assets and liabilities, as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, of the boards that, before they were dissolved under subsection 1, had jurisdiction wholly in the area in which the county or district combined separate school board has jurisdiction. 1968, c. 125, s. 6, *part*; 1968-69, c. 117, s. 7 (3).

(3) Where a board that is dissolved under subsection 1 had jurisdiction in an area that, after the 1st day of January, 1969, forms part of two or more county or district combined separate school zones, each such county or district combined separate school board shall, on or before the 15th day of March, 1969, designate two of the arbitrators appointed under subsection 2 who shall collectively value and adjust in an equitable manner the assets and liabilities of such boards as of the 31st day of December, 1968, except lands and premises used as schools on such 31st day of December, and shall apportion in an equitable manner the obligations under clauses *c* and *f* of subsection 1. 1968, c. 125, s. 6, *part*; 1968-69, c. 117, s. 7 (4). Idem

(4) The arbitrators under subsection 3 shall appoint an additional arbitrator, and if the arbitrators fail to make such appointment before the 1st day of April, 1969, the Minister may make such appointment. Appointment of additional arbitrator

(5) Where a majority of the arbitrators is unable to reach a decision on any matter, such matter shall be referred by the county or district combined separate school board or boards to the county or district judge whose decision is final. 1968, c. 125, s. 6, *part*. Referral to judge

(6) The decision of a majority of the arbitrators under subsection 2 or 3 shall be made on or before the 31st day of July, 1970, except a decision in respect of a teacher's contract under clause *f* of subsection 1 which shall be made on or before the 1st day of May, 1969, and, subject to subsection 8, every such decision is final. Decision of arbitrators

(7) A decision under subsection 2 or 3 or an amended decision under subsection 8 shall not be implemented before the 1st day of January, 1971, but the provisions of this subsection shall not operate so as to prevent the implementation before the 15th day of June, 1970, of, Implementation of decision

(*a*) a decision in respect of a teacher's contract under clause *f* of subsection 1; or

(*b*) a decision, other than a decision referred to in clause *a*, that has been implemented in whole or in part before such date.

(8) Where, subsequent to the decision of the arbitrators referred to in subsection 6, a matter or condition that was not evident at the time the decision was made is brought to the attention of the county or district combined separate school board before the 30th day of September, 1970, the county or district combined separate school board, where no part of the decision, other than a decision in respect of a teacher's contract under clause *f* of subsection 1, has been implemented before the Amended decision

15th day of June, 1970, shall, before the 15th day of October, 1970, refer the matter or condition to the arbitrators who shall, prior to the 15th day of November, 1970, make a decision in relation to such matter or condition in accordance with this section, and may amend their former decision accordingly, and the provisions of subsection 5 apply *mutatis mutandis*.

Vacancy in arbitrators

(9) For the purposes of subsection 8, where an arbitrator appointed under subsection 2, 3 or 4 is unable for any reason to act, a person qualified in accordance with subsection 2 shall be appointed to fill the vacancy by the board, or by the arbitrators, that appointed the arbitrator who is unable to act. 1970, c. 64, s. 3.

Sick leave credits

(10) Where an employee of a board that, before the 1st day of June, 1968, has established a sick leave credit plan becomes, on the 1st day of January, 1969, an employee of a county or district combined separate school board, the board shall place to the credit of the employee the sick leave credits and the termination of employment benefits standing to his credit in the plan of the first-mentioned board.

Committee during transitional period

(11) Notwithstanding the dissolution of a board under subsection 1, a county or district combined separate school board shall, by resolution, constitute any or all trustees of such former board that immediately prior to the 1st day of January, 1969, operated a school or schools in the county or district combined separate school zone and who are not trustees of a county or district combined separate school board, as a committee of such board in respect of their former jurisdiction, and shall delegate such of its powers and duties in respect of any matter or purpose other than policy, organization and planning, for such period of time as the county or district combined separate school board may determine and may terminate such delegation at any time but not later than the 30th day of June, 1969, and may pay to such a trustee a monthly honorarium equivalent to that to which he was entitled as a trustee of the former board in the month of December, 1968. 1968, c. 125, s. 6, *part*.

Fees for arbitrators R.S.O. 1970, c. 424

(12) Notwithstanding subsection 4 of section 102 of *The Schools Administration Act*, each arbitrator appointed under this section shall be paid such fee for his services as is determined by the board that appointed him. 1968-69, c. 117, s. 7 (5).

Tax notices

87.—(1) Where taxes are collected by a municipal council under section 71 for the purposes of a combined separate school board under this Part, the notice of taxes given by the collector under section 542 of *The Municipal Act* shall be given separately in relation to taxes imposed for school purposes or in such manner as will clearly indicate the taxes imposed for school purposes. 1968, c. 125, s. 6, *part*.

R.S.O. 1970, c. 284

Payment of rates to boards

(2) Where the council of a municipality all or part of which is in a county or district combined separate school zone, levies and collects the rates and taxes imposed by the county or district combined separate school board, the council shall, subject to subsections 3 and 5, pay to such board the sums required to be raised by the municipality in the following instalments:

1. 25 per cent of such amounts on the 31st day of March;
2. 25 per cent of such amounts on the 30th day of June;
3. 25 per cent of such amounts on the 30th day of September;
4. 25 per cent of such amounts on the 15th day of December,

and in case of non-payment of such instalment or any portion thereof on such dates, the municipality so in default shall pay to the board interest thereon from the day of default to the date that the payment is made at the minimum lending rate of the majority of chartered banks on the day of default and where, with the consent of the board, such instalments or any portion thereof are paid in advance of such dates, the board shall allow to the municipality a discount thereon from the date of payment to the date upon which the payment is due at the minimum lending rate of the majority of chartered banks on the date of payment.

Agreements

(3) Where a county or district combined separate school board has requested the municipalities that are in whole or in part within the county or district combined separate school zone to levy and collect the rates or taxes imposed by the board, the board may, by agreement with a majority of the municipalities in which it has jurisdiction, where such municipalities represent at least two-thirds of the assessment of the property in the combined zone rateable for separate school purposes as equalized in accordance with subsection 1 of section 68, provide for any number of instalments and amounts and due dates thereof other than those provided in subsection 2, which shall be applicable to every municipality all or part of which is within the combined zone, and otherwise subsection 2 applies *mutatis mutandis*.

Termination of agreement

(4) Where an agreement under subsection 3 does not provide for its termination, it shall continue in force from year to year until it is terminated on the 31st day of December in any year by notice given before the 31st day of October in such year,

(*a*) by the secretary of the county or district combined separate school board as authorized by a resolution of the board; or

(*b*) by the clerks of the majority of the municipalities which represent at least two-thirds of the assessment of the

property in the combined zone rateable for separate school purposes as equalized in accordance with subsection 1 of section 68,

and where no agreement is in effect under subsection 3, the payments shall be made as provided in subsection 2.

Where instalment due before rates to be levied submitted to council

(5) Where in any year a municipality is required to levy and collect the rates or taxes imposed by a county or district combined separate school board, and, for any reason, the rates to be levied have not been submitted to the council of the municipality before the date upon which an instalment is due, the amount of the instalment shall be based upon the rates submitted in the previous year and paid on the due date, and in the case of late payment or prepayment of all or part of such instalment, the interest or discount under subsection 2 shall apply thereto, and the necessary adjustment shall be made in the instalment due next following the date upon which the rates are received. 1970, c. 64, s. 4.

Appointment and dismissal of auditor

88.—(1) Every separate school board under this Part shall appoint an auditor who shall be a person licensed by the Department of Municipal Affairs as a municipal auditor and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the trustees of the board.

Disqualification of auditor

(2) No person shall be appointed as an auditor of a separate school board under this Part who is, or during the preceding year was, a trustee of the board or who has, or during the preceding year had, any direct or indirect interest in any contract or any employment with the board other than for services within his professional capacity, and every auditor, upon appointment, shall make and subscribe a declaration to that effect.

Duties of auditor

(3) An auditor of a separate school board under this Part shall perform such duties as are prescribed by the Department and by the Department of Municipal Affairs and also such duties as may be required by the board that do not conflict with the duties prescribed by the Department and by the Department of Municipal Affairs.

Rights of auditor

(4) An auditor of a separate school board under this Part has right of access at all reasonable hours to all books, records, documents, accounts and vouchers of the board and is entitled to require from the trustees and officers of the board such information and explanation as in his opinion may be necessary to enable him to carry out his duties.

Auditor may take evidence

R.S.O. 1970, c. 379

(5) An auditor of a separate school board under this Part may require any person to give evidence on oath touching any of such matters, and for such purpose has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*.

(6) An auditor of a separate school board under this Part is entitled to attend any meeting of the board or of a committee thereof and to receive all notices relating to any such meeting that any trustee is entitled to receive and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor. 1968, c. 125, s. 6, *part*. Auditor may attend meetings

89.—(1) The treasurer of every separate school board, under this Part in every year shall, within one month after receiving the auditor's report on the financial statements of the board, cause to be published or to be mailed or delivered to each supporter a copy of the balance sheet or sheets and the corresponding statements of surplus as of the 31st day of December of the preceding year and a statement of revenue and expenditure for the preceding year, or a summary thereof, in such form as the Department may prescribe, together with a copy of the report of the auditor. Publication of financial statements

(2) Where in any year a tax notice is mailed to each supporter before the 30th day of June, the treasurer may, in lieu of publishing, mailing or delivering a copy or summary and the report under subsection 1, cause to be included with such notice the copy or summary and the report. 1968, c. 125, s. 6, *part*. Idem

90.—(1) In this section, Interpretation

(*a*) "equalized residential and farm assessment" means the residential and farm assessment as adjusted by the application of the equalization factor based on the assessment referred to in clause *b*, provided by the Department of Municipal Affairs;

(*b*) "residential and farm assessment" means the residential and farm assessment upon which taxes are levied in the year in which a determination is made or the year in which nominations are held, as the case may be. 1968, c. 125, s. 6, *part*.

(2) Subject to subsection 4, the number of trustees of a county combined separate school board shall be determined by the population of the county or counties in the county combined separate school zone, and the number of trustees of a district combined separate school board shall be determined by the population of the muncipalities all or part of which are included in the district combined separate school zone, as the case may be, as follows, where the population is, Composition of board

(*a*) less than 25,000, eight trustees;

(*b*) 25,000 or more but less than 45,000, ten trustees;

(*c*) 45,000 or more but less than 100,000, twelve trustees;

(*d*) 100,000 or more but less than 200,000, fourteen trustees;

(*e*) 200,000 or more, sixteen trustees. 1968, c. 125, s. 6, *part*; 1968-69, c. 117, s. 8 (1).

Change in numbers of trustees

(3) Where it becomes evident from the population of the county or counties in a county combined separate school zone or of the municipalities all or part of which are in a district combined separate school zone that the number of trustees of the board should be increased or decreased in accordance with subsection 2, at the next election of trustees the proper number of trustees shall be elected. 1968, c. 125, s. 6, *part*.

Number of trustees to be elected in a combined zone comprising one or more cities and county or district municipalities

(4) Where a combined separate school zone includes county or district municipalities or parts thereof and one or more cities, the number of trustees to be elected by the separate school supporters,

(*a*) of each city shall be equal to the product, correct to the nearest integer, the fraction one-half being raised to the next higher integer, obtained by multiplying the number of trustees determined under subsection 2 by the ratio of the equalized residential and farm assessment of the property rateable for separate school purposes in the city to the equalized residential and farm assessment of all the property rateable for separate school purposes in the county or district combined separate school zone; and

(*b*) of the county or district municipalities or the parts thereof shall be the number of trustees determined under subsection 2 less the total number of trustees determined under clause *a* for the city or cities, but in no case shall the number of trustees to be elected under this clause be fewer than one. 1968, c. 125, s. 6, *part*; 1968-69, c. 117, s. 8 (2).

Determination under subs. 4, who to make

(5) The clerk of the county municipality or the clerk of the organized district municipality, as the case may be, or where there is no organized district municipality in the district combined separate school zone, the clerk of the city, having the greatest equalized residential and farm assessment for separate school purposes in a county or district combined separate school zone, shall make the determination required under subsection 4, and shall, before the 1st day of September in the year of the determination, send by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board, a copy of the determination.

When determination to be made

(6) Before the 1st day of September in the year in which an election is to be held, a determination shall be made under subsection 4,

(*a*) if it is determined under subsection 3 that the number of members of the county or district combined separate school board should be increased or decreased or if the boundaries of the county or district combined separate school zone have been altered, or are to be altered under subsection 2 of section 81, effective the 1st day of January next following the election;

(*b*) if,

(i) the boundaries of one or more cities within the county or district combined separate school zone have been altered or a new city has been erected in the county or district combined separate school zone subsequent to the latest determination made under subsection 4 that did not take into account the altered boundaries or the new city, or

(ii) the boundaries of one or more cities within the county or district combined separate school zone are to be altered or a new city is to be erected affective the 1st day of January of the year next following the election; and

(*c*) in every fourth year following the latest determination under subsection 4,

and, subject to subsection 15, a determination made under subsection 4 is effective until a new determination is required in accordance with this subsection. 1970, c. 64, s. 5 (1).

Where a city does not qualify for at least one trustee

(7) Where a city is not entitled to one or more trustees under clause *a* of subsection 4, the city shall be deemed to be a county or district municipality for the purposes of subsection 4 or 8, and the clerk of the city shall be deemed to be a clerk of a county or district municipality for the purposes of subsection 8. 1968, c. 125, s. 6, *part*.

Distribution of trustees to be elected in county or district municipalities in combined zone

(8) With respect to the county municipalities in a county combined separate school zone and the district municipalities in a district combined separate school zone, the clerks of the three county municipalities or the clerks of the three organized district municipalities, as the case may be, having successively the greatest equalized residential and farm assessment for separate school purposes in the combined separate school zone, and where there are fewer than three organized district municipalities in the district combined separate school zone, the clerks of all such municipalities, shall determine, before the 1st day of September in each year in which,

(*a*) a determination is made in accordance with subsection 6; or

(*b*) an election is to be held and the boundaries of one or more county or district municipalities have been altered subsequent to the latest determination under this subsection, or are to be altered effective on or before the 1st day of January next following the election,

the county or district municipality or municipalities to be represented by each trustee to be elected in the county or district municipalities in the combined separate school zone, but in no case where two or more trustees are to be elected in the county or district municipalities shall the determination provide for a trustee to be elected by a general vote of all the separate school supporters of the county or district municipalities, and such determination is effective until a new determination is required under this subsection. 1970, c. 64, s. 5 (2).

Where judge to make determination

(9) Where the determination under subsection 8 is not made before the 1st day of September, the clerk of the county municipality or of the district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in the combined separate school zone, shall refer the matter to the judge, who shall make the determination before the 1st day of October in accordance with subsection 11, and his decision is final. 1970, c. 64, s. 5 (2).

Municipal clerk from each county to be on committee under subs. 8

(10) Where the separate school zones in two or more counties are combined to form a county combined separate school zone, and where the three clerks designated under subsection 8 do not include a clerk from each county in the county combined separate school zone, the clerk of the municipality having the greatest equalized residential and farm assessment for separate school purposes in each such county not so represented shall act together with the clerks designated under subsection 8.

Determination

(11) In determining under subsection 8,

(*a*) the number of trustees to be elected by the separate school supporters of a county or district municipality; or

(*b*) the county or district municipalities that are to be combined for the election of one or more trustees by the separate school supporters of such municipalities,

the clerks of the county or district municipalities, as the case may be, shall apportion the number of trustees determined for a combined separate school zone under clause *b* of subsection 4, as nearly as is practicable, in the proportion that the equalized residential and farm assessment of the property rateable for separate school purposes in the part of such zone in the municipality or combined municipalities bears to the total equalized residential and farm assessment of the property rateable for separate school purposes in the whole of such zone in the county or district municipalities in such zone, and shall, in so far as it is

practicable to do so, combine municipalities that are adjoining. 1968, c. 125, s. 6, *part*.

Appeal from determination

(12) Where the determination made by the clerks of the county or district municipalities under subsection 8 allots to a municipality or to a combination of municipalities a percentage of the total number of trustees to be elected by the separate school supporters of all the county or district municipalities in the combined separate school zone that differs by more than five percentage points from the percentage that the equalized residential and farm assessment of the property rateable for separate school purposes in the part of such zone in the municipality or combination of municipalities is of the total equalized residential and farm assessment of the property rateable for separate school purposes in the whole of such zone, the council of the municipality or the council of any municipality in such combination of municipalities, as the case may be, may, within fifteen days after notice of the determination has been mailed, appeal the determination to the county or district judge who, before the 1st day of October, shall either reapportion the number of trustees in accordance with subsection 11 or, where he determines that the determination was made in accordance with subsection 11, confirm the determination, and his decision is final. 1968, c. 125, s. 6, *part*; 1970, c. 64, s. 5 (3).

Request by clerk for information

(13) On the request of the clerk of the county municipality or the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in a combined separate school zone, the clerk of each city and of each county or district municipality and the secretary of the county or district combined separate school board shall provide the clerk of such county municipality or organized district municipality with the information required to make any determination under this section, and in the year 1968 the secretary of each separate school board shall provide such information. 1968, c. 125, s. 6, *part*.

Mailing of determination under subss. 8, 12

(14) The clerk of the county municipality or the clerk of the organized district municipality, as the case may be, having the greatest equalized residential and farm assessment for separate school purposes in a county or district combined separate school zone shall send by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board,

(*a*) before the 1st day of September, 1968, and before the 1st day of September in each year in which it is determined under subsection 3 that the number of trustees of the board should be increased or decreased or in which a determination is made under subsection 8, a copy of the determination made under subsection 8; and

(*b*) before the 1st day of October in each year in which a determination is made by the judge under subsection 9 or 12, a copy of the determination. 1968, c. 125, s. 6, *part*; 1970, c. 64, s. 5 (4).

Appeal and decision of judge

(15) The council of any municipality concerned and a district combined separate school board on behalf of any territory without municipal organization may, within ten days of the mailing of the determination made under subsection 4, appeal to the judge with respect to the accuracy of the determination, and the judge shall either vary or confirm the determination, and his decision is final, and the clerk of the county or district municipality responsible under subsection 5 for making such determination shall make the changes required by the judge and shall send a copy of the decision by registered mail to the clerk of each city and of each county or district municipality in the combined separate school zone and to the secretary of the county or district combined separate school board. 1968, c. 125, s. 6, *part*.

New determination where former determination improper

(16) Where the council of a municipality, or a county or district combined separate school board on behalf of any territory without municipal organization that is deemed a district municipality, after the period for an appeal under this section, and notwithstanding a decision made in respect of such appeal, is of the opinion that the composition of the board of a combined separate school zone was not determined in accordance with the provisions of this section, the council or the board may, before the 1st day of May in the year of the next following election, apply to the judge to have the determination set aside and, where the judge finds that the determination was not made in accordance with the provisions of this section, he shall order a new determination to be made, and the determination so made, subject to an appeal under subsection 12 or subsection 15, shall apply to the election next following such determination, and the board in respect of which the application to the judge is made shall be deemed to have been properly constituted notwithstanding any defect in its composition.

Where election by general vote and where by areas

(17) The number of trustees of a county or district combined separate school board to be elected in a municipality shall be elected by a general vote of the separate school supporters of such board in the municipality, provided that, where it is determined under this section that the number of trustees to be elected to the board by the separate school supporters in the municipality is two or more, the council of the municipality may, by by-law, divide the municipality into two or more areas and provide for the election of one or more of such trustees by the separate school supporters in each of such areas.

Time for passing by-law

(18) A by-law for the purpose mentioned in subsection 17 and a by-law repealing any such by-law shall not be passed later than

the 1st day of November in the year of the election and shall take effect for the purpose of the election next after the passing of the by-law and remains in force until repealed. 1970, c. 64, s. 5 (6).

Elections in county and district combined zones

(19) Where it is determined under subsection 8 that two or more county or district municipalities shall be combined for the purposes of the election of one or more trustees to a combined separate school board, such trustee or trustees shall be elected by a general vote of the separate school supporters of such board in the combined area, and,

(*a*) the nominations for such trustees shall be conducted by the returning officer of the municipality having the greatest equalized residential and farm assessment for the purposes of such board in the combined area, who shall send to the clerk of each municipality concerned, by registered mail within forty-eight hours after the closing of nominations, the names of the candidates who have qualified; and

(*b*) the clerk of each municipality shall be the returning officer for the vote to be recorded in his municipality and he shall report forthwith the vote recorded to the returning officer referred to in clause *a*, who shall prepare the final summary and announce the vote. 1968, c. 125, s. 6, *part*; 1970, c. 64, s. 5 (7, 8).

Secretary of board deemed clerk for elections in areas deemed district municipalities

(20) For the purposes of clause *b* of subsection 19, the secretary of the district combined separate school board shall be the clerk of each part of territory without municipal organization in the district combined separate school zone that is deemed to be a district municipality for separate school purposes. 1968, c. 125, s. 6, *part*.

Biennial elections

(21) The trustees of a county or district combined separate school board shall be elected for a term of two years and the election of such trustees shall take place in the year 1968 and in every second year thereafter.

Where no municipal election in any year

(22) Where in a municipality there is no provision for municipal elections in the year 1968 or in any second year thereafter, the council of the municipality shall provide for the election of trustees of the county or district combined separate school board in the year 1968 and in every second year thereafter.

Manner of election

(23) An election of trustees of a county or district combined separate school board shall be conducted in a municipality by the same officers and in the same manner as municipal elections in the municipality, and,

(*a*) the meetings of separate school supporters for the nomination of candidates for a county or district combined separate school board shall be held on the second Monday preceding the first Monday in December;

(*b*) the day for polling shall be the first Monday in December and the polls shall be open between the hours of 10 o'clock in the forenoon and 8 o'clock in the afternoon, except that, where a municipal election is being held on the same day, the polls shall be open between the same hours as for the municipal election;

(*c*) the council of every municipality in which a nomination meeting is to be held shall, before the 1st day of November in the year 1968 and in every second year thereafter, pass a by-law naming the date, time and place at which the nomination meeting shall be held, and the clerk of such municipality shall, within forty-eight hours of the passing of the by-law, notify the returning officer of each municipality concerned who shall advertise the date, time and place of the nomination meeting as provided in section 46 of *The Municipal Act*; and

R.S.O. 1970, c. 284

(*d*) the council of a municipality may by by-law provide for advance polls, and section 91 of *The Municipal Act* applies *mutatis mutandis*.

Voters' list

(24) The list of voters to be used in an election of trustees of a county or district combined separate school board is,

(*a*) the voters' list prepared, revised and certified for use in the municipal election in the year of the election of the combined separate school board; or

(*b*) where no municipal election is to be held in a municipality in the year of the election of the combined separate school board, the last revised voters' list for the municipality completed in accordance with *The Voters' Lists Act*; or

R.S.O. 1970, c. 485

(*c*) in territory without municipal organization, the last revised assessment roll, excepting therefrom the names of persons who are not British subjects and of persons who are not of the full age of twenty-one years,

except that only persons who are separate school supporters of the combined separate school board may vote at the election of the trustees of such board.

Certificate to enter name on voters' list

(25) Where, in a municipality in which no municipal election is to be held in the year of the election of the combined separate school board, or in territory without municipal organization, the name of a person has been entered on the last revised assessment roll or has been added to the assessment roll under section 44 of *The Assessment Act*, and the clerk is satisfied that the person is entitled to have his name entered on the list of voters and his name has not been entered thereon, he may issue a certificate in

R.S.O. 1970, cc. 32, 284

Form 10 to *The Municipal Act*, authorizing the returning officer or proper deputy returning officer to enter the name of the person on such list. 1970, c. 64, s. 5 (9).

Expenses for certain elections to be repaid to municipality

(26) Where the council of a municipality is required to provide for an election of trustees of a county or district combined separate school board in a year other than a year in which the election of the members of the council is held, the county or district combined separate school board shall forthwith after its organization reimburse the treasurer of the municipality for the reasonable expenses incurred by the clerk or any other officer of the municipality for advertising the times and places of nomination meetings and of polls, for printing, for providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, and for the transmission of packets, and for reasonable fees and allowances for services rendered respecting the election of trustees of the board, excluding the cost of preparing the voters' list. 1970, c. 64, s. 5 (10).

Number of votes for candidates

91.—(1) Every person in a municipality or in a part thereof or in a combination of municipalities who is qualified to vote for trustees of a separate school board under this Part is entitled to as many votes as there are trustees to be elected in such municipality or part or combination of municipalities, but may not give more than one vote to any one candidate.

Retiring members eligible for re-election

(2) The trustees retiring at the expiration of the terms for which they were respectively elected are eligible for re-election if otherwise qualified.

Qualifications for proposers and seconders of candidates

(3) Every proposer and seconder of a candidate nominated for the office of a trustee to be elected to a separate school board under this Part shall be a separate school supporter. 1968, c. 125, s. 6, *part*.

Person not to be candidate for more than one seat on board

(4) No person shall qualify himself as a candidate for more than one seat on a county or district combined separate school board, and any person who so qualifies himself and is elected to hold one or more seats on the county or district combined separate school board is not entitled to sit as a member of the board by reason of the election, and his seat or seats are thereby vacated. 1970, c. 64, s. 6.

Filling of vacancies

(5) Where the office of a trustee of a separate school board under this Part becomes vacant from any cause before the expiration of the term for which he was elected, it shall be filled in the manner provided in section 52 for filling a vacancy on a separate school board in an urban municipality. 1968, c. 125, s. 6, *part*.

Right of certain pupils to attend school in another combined zone

R.S.O. 1970, cc. 111, 424

92.—(1) Where, on the 31st day of December, 1968, a pupil is enrolled in a separate school that he has a right to attend, and the school on and after the 1st day of January, 1969, is situated in a combined separate school zone other than that in which the pupil resides, the pupil has, in addition to any other right that he may have under *The Department of Education Act, The Schools Administration Act* or this Act, the right to attend the school until he completes his education in the school.

Idem

(2) Where any part of a separate school zone after the 1st day of January, 1969, forms a part of a county or district combined separate school zone other than the county or district combined separate school zone in which the school that the pupils resident in such part had a right to attend on the 31st day of December, 1968, is situate, all pupils who reside in such part after the 1st day of January, 1969, may attend such school until the county or district combined separate school boards concerned agree to other arrangements for the accommodation of such pupils. 1968, c. 125, s. 6, *part*.

Application of subss. 1, 2

(3) Subsections 1 and 2 do not extend the right acquired by a pupil to attend a school under an order of the Ontario Municipal Board or under an agreement between two or more boards or between a board and the Crown in right of Canada. 1968-69, c. 117, s. 9.

Superintendent of separate schools

93.—(1) A separate school board under this Part having an enrolment in its schools on the first school day of 1969 of 2,000 or more shall, on or before the 1st day of August, 1969, appoint a superintendent of separate schools who shall be the chief education officer and the chief executive officer of the board, and he shall hold the qualifications required by the regulations.

Idem

(2) A separate school board under this Part having an enrolment in its schools of 2,000 or more on the 30th day of September of the year 1969 or of any year thereafter shall, on or before the 1st day of August of the year following, appoint a superintendent of separate schools who shall be the chief education officer and the chief executive officer of the board, and he shall hold the qualifications required by the regulations.

Supervisory officers

(3) A county or district combined separate school board having an enrolment in its schools of fewer than 2,000 may appoint such supervisory officers as are approved by the Minister. 1968, c. 125, s. 6, *part*.

Application of this Part

94. Notwithstanding the provisions of any special Act, this Part applies to every separate school board, county, municipality and person in accordance with the provisions of this Part. 1968, c. 125, s. 6, *part*.

95. The provisions of Part II that are not inconsistent with this Part shall be read as part of this Part and shall apply to combined separate school boards under this Part, and so far as such provisions are inconsistent with the provisions of this Part, they do not apply to combined separate school boards under this Part. 1968, c. 125, s. 6, *part*. Application of Part II

FORM 1

FORM OF INDEX BOOK

(*Section 60 (1)*)

Names	Notices claiming exemption, when received	Remarks
Allen, John.....	3rd February, 19.....	Notice of withdrawal received 1st January, 19...
Ardagh, Joseph.....	3rd February, 19.....	Disallowed by Assessment Review Court, 1st June, 19...
Ashbridge, Robert.....	3rd February, 19.....	

R.S.O. 1960, c. 368, Form 1.

FORM 2

NOTICE BY CORPORATION AS TO APPLICATION OF SCHOOL TAX

(*Section 64 (1)*)

To the Clerk of (*describing the municipality*)

Take notice that (*here insert the name of the corporation so as to sufficiently and reasonably designate it*) pursuant to a resolution in that behalf of the directors requires that hereafter and until this notice is either withdrawn or varied, the whole or so much of the assessment for land and business or other assessments of the corporation within (*giving the name of the municipality*) as is hereinafter designated, shall be entered, rated and assessed for separate school purposes, namely, one-fifth (*or as the case may be*) of the land and business or other assessments.

Given on behalf of the company this (*here insert date*).

R.S., Secretary of the Company.

R.S.O. 1960, c. 368, Form 2.

CHAPTER 431

The Settled Estates Act

Interpretation

1.—(1) In this Act,

(*a*) "court" means the Supreme Court;

(*b*) "income" includes rents and profits;

(*c*) "land" includes incorporeal hereditaments and an undivided share in land;

(*d*) "possession" includes receipt of income;

(*e*) "settled estate" means land and all estates or interests in land that are the subject of a settlement;

(*f*) "settlement" means a statute, deed, agreement, will or other instrument, or any number of such instruments, under or by virtue of which land or any estate or interest in land stands limited to or in trust for any persons by way of succession, including any such instruments affecting the estates of any one or more of such persons exclusively.

Estates in remainder or reversion not disposed of by settlement

(2) All estates or interests in remainder or reversion not disposed of by the settlement, and reverting to a settlor or descending to the heir, or as upon an intestacy to the representative of a testator, shall be deemed to be estates coming to such settlor, heir or representative under or by virtue of the settlement.

Determining what are settled estates

(3) In determining what are settled estates within the meaning of this Act the court shall be governed by the state of facts and by the trusts or limitations of the settlement at the time of the settlement taking effect. R.S.O. 1960, c. 369, s. 1.

Power to authorize leases of settled estates

2.—(1) The court, if it considers it proper and consistent with a due regard for the interests of all persons entitled under the settlement, and subject to the provisions and restrictions of this Act, may authorize leases of any settled estate or of any rights or privileges over or affecting any settled estate, for any purpose whatsoever, the following conditions being observed:

When lease to take effect

1. Every such lease shall be made to take effect in possession at or within one year after the making thereof, and shall be for such term of years as the court shall direct, where the court is satisfied that it is beneficial to the inheritance to grant a lease.

Best rent to be reserved

2. On every such lease shall be reserved the best rent or reservation in the nature of rent, either uniform or not,

that can be reasonably obtained, to be made payable half-yearly or more often, and to be incident to the immediate reversion; but in the case of a mining lease, a repairing lease or a building lease a nominal rent or any smaller rent than the rent to be ultimately made payable may, if the court thinks fit so to direct, be made payable during all or any part of the first five years of the term of the lease.

Exception

Reservation of rent in leases of earth, coal, stone or mineral

3. Where any such lease is of any earth, coal, stone or mineral a certain portion of the whole rent or payment reserved shall be from time to time set aside and invested, when and so long as the person for the time being entitled to the receipt of the rent is a person who by reason of his estate or by virtue of any declaration in the settlement is entitled to work the earth, coal, stone, or mineral for his own benefit, one-fourth part of the rent, and in other cases three-fourth parts thereof, and in every such lease sufficient provision shall be made to ensure such application of that portion of the rent by the appointment of trustees or otherwise, as the court considers expedient.

Cutting timber

4. No such lease shall authorize the cutting of any timber or the felling of any trees except in the ordinary course of husbandry, or so far as shall in the judgment of the court be necessary, nor shall it be made without impeachment of waste.

Form of lease

R.S.O. 1970, c. 236

5. Every such lease shall be by deed, in duplicate, executed by the lessor and lessee, and shall be subject to the statutory right of re-entry for non-payment of rent contained in *The Landlord and Tenant Act*.

Agreements for renewal

(2) Any such lease may contain an agreement for the renewal or renewals thereof if the court thinks fit, and the court may determine the length of time for which the renewal or renewals, if any, may be made. R.S.O. 1960, c. 369, s. 2.

Special covenants

3. Subject and in addition to the conditions hereinbefore mentioned every such lease shall contain such covenants, conditions and stipulations as the court considers expedient with reference to the special circumstances of the demise. R.S.O. 1960, c. 369, s. 3.

Leases of parts of settled estates

4. The power to authorize leases conferred by this Act authorizes leases either of the whole or any part of the settled estate, and may be exercised from time to time. R.S.O. 1960, c. 369, s. 4.

Surrender and renewal

5. A lease, whether granted in pursuance of this Act or otherwise, may be surrendered either for the purpose of obtaining

a renewal of it or not, and the power to authorize leases conferred by this Act shall authorize a new lease of the whole or any part of the hereditaments comprised in any surrendered lease. R.S.O. 1960, c. 369, s. 5.

Preliminary contracts

6. The power to authorize leases conferred by this Act extends to authorize preliminary contracts to grant such leases, and any of the terms of such contracts may be varied in the leases. R.S.O. 1960, c. 369, s. 6.

Mode in which leases may be authorized

7. The power to authorize leases conferred by this Act may be exercised by the court either by approving of a particular lease or by ordering that the power of leasing in conformity with this Act shall be vested in trustees in the manner hereinafter mentioned. R.S.O. 1960, c. 369, s. 7.

What evidence to be produced on an application to authorize leases

8. Where application is made to the court either to approve of a particular lease or to vest any power of leasing in trustees the court shall require the applicant to produce such evidence as it considers sufficient to enable it to ascertain the nature, value and circumstances of the estate and the terms and conditions on which leases thereof ought to be authorized. R.S.O. 1960, c. 369, s. 8.

Direction as to who shall be lessor

9. Where a particular lease or contract for a lease has been approved by the court the court shall direct what person shall execute the same as lessor, and the lease or contract executed by such person shall take effect in all respects as if he had been at the time of the execution thereof absolutely entitled to the whole estate or interest that is bound by the settlement, and had immediately afterwards settled the same according to the settlement, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the court directs. R.S.O. 1960, c. 369, s. 9.

When powers of leasing may be vested in trustees

10. Where the court considers it expedient that any general power of leasing any settled estate conformable with this Act should be vested in trustees it may, by order, vest any such power accordingly either in the existing trustees of the settlement or in any other person or persons, and the power, when exercised by such trustees, shall take effect in all respects as if the power so vested in them had been originally contained in the settlement, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the court directs, and in every such case the court may impose any conditions as to consents or otherwise on the exercise of the power and may also authorize the insertion of provisions in any such order for the appointment of new trustees from time to time for the purpose of exercising the power of leasing. R.S.O. 1960, c. 369, s. 10.

Conditions that leases be settled by the court

11. In any order under this Act for vesting any power of leasing in any trustees or other person or persons no conditions shall be inserted requiring that the lease thereby authorized shall be submitted to or be settled by the court or be made conformable with a model lease, unless the person applying for the order desires to have any such condition inserted or it appears to the court that there is some special reason for the insertion of such a condition. R.S.O. 1960, c. 369, s. 11.

Striking out such conditions

12. In any order, whether under this Act or under any other Act, in which any such condition has been inserted, any person interested may apply to the court to alter the order by striking out the condition, and the court may alter the order accordingly, and the order so altered has the same validity as if it had originally been made in its altered state; but the court may decline to act under this provision in any case in which it appears to the court that for any special reason such a condition is necessary or expedient. R.S.O. 1960, c. 369, s. 12.

Powers of court:

13.—(1) The court, if it considers it proper and consistent with a due regard for the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Act, may,

to authorize mortgages for purpose of repairs, etc.

(*a*) from time to time authorize a mortgage of the whole or any part of any settled estate for the purpose of raising money to repair, rebuild or alter any existing building upon the estate, or otherwise to build upon or improve the same; or for the purpose of raising money to pay off and discharge wholly or in part any encumbrance thereon;

to authorize sales of settled estates and of timber

(*b*) from time to time authorize a sale of the whole or any part of any settled estate or of any easement, right or privilege, of any kind, over or in relation to the same, or of any timber not being ornamental timber growing on the settled estate;

to sanction proceedings for protection of estate

(*c*) sanction any action, defence, petition to the Legislature or other proceeding appearing to the court necessary for the protection of any settled estate, and order that all or any part of the costs and expenses in relation thereto be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate, or be raised and paid out of the rents and profits of the settled estate, or out of any money or investment representing money liable to be laid out in the purchase of land to be settled in the same manner as the settled estate, or out of the income of such money or investment, or out of any accumulations of rents, profits or income.

(2) Such mortgage shall be authorized where the court is of the opinion that the interests of the estate or any part thereof or of the persons entitled to the estate or any part thereof require, or will be substantially promoted by such mortgage. When mortgages authorized

(3) Every such sale shall be conducted and confirmed in the same manner as by the rules and practice of the court is required in the sale of land under an order of the court. R.S.O. 1960, c. 369, s. 13. How sales conducted

14. Where land is sold for building purposes the court may allow the whole or any part of the consideration to be a rent issuing out of the land, which may be secured and settled in such manner as the court approves. R.S.O. 1960, c. 369, s. 14. Rental as consideration for land sold for building

15. On any sale of land, any earth, coal, stone or mineral may be excepted and any rights or privileges may be reserved, and the purchaser may be required to enter into any covenants or submit to any restrictions that the court considers advisable. R.S.O. 1960, c. 369, s. 15. What may be reserved

16.—(1) The court, if it considers it proper and consistent with a due regard for the interests of all persons entitled under the settlement and subject to the provisions and restrictions of this Act, may from time to time direct that any part of any settled estate be laid out for streets, roads, paths, squares, gardens, or other open spaces, or for sewers, drains or watercourses, either to be dedicated to the public or not, and may direct that the parts so laid out shall, subject to this Act, remain vested in the trustees of the settlement or be conveyed to or vested in any other trustees upon such trusts for securing the continued appropriation thereof to such purposes in all respects and with such provisions for the appointment of new trustees when required as the court considers advisable. Dedications for streets, etc.

(2) Where any part of any settled estate is directed to be laid out for such purposes the court may direct that open spaces, sewers, drains or watercourses, including all necessary and proper fences, pavings, connections and other works incidental thereto, be made and executed, and that all or any part of the expenses in relation to such laying out and making and execution be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate, or be raised and paid out of the rents and profits of the settled estate or any part thereof, or out of any money or investments representing money liable to be laid out in the purchase of land to be settled in the same manner as the settled estate, or out of the income of such money or investments, or out of any accumulations of rents, profits or income, and the court may also give such directions as it considers advisable for any repair or maintenance of any such streets, roads, paths, How provision made for laying out streets, etc.

squares, gardens or other open spaces, sewers, drains or watercourses or other works out of any such rents, profits, income or accumulations during such period as the court considers advisable.

Restrictions R.S.O. 1970, cc. 409, 234, 284, 349

(3) The powers hereby granted shall be exercised subject to *The Registry Act, The Land Titles Act, The Municipal Act, The Planning Act* and any other Act dealing with the subdivision of land and the registration of plans. R.S.O. 1960, c. 369, s. 16.

Directions as to execution of deeds

17. On every sale, mortgage or dedication made under the authority of this Act the court may direct what person shall execute the deed of conveyance or mortgage, and the deed or mortgage executed by such person shall take effect as if the settlement had contained a power enabling such person to effect the sale, mortgage or dedication, and so as to operate if necessary by way of revocation and appointment of the use or otherwise as the court directs. R.S.O. 1960, c. 369, s. 17.

Who may apply for exercise of powers

18.—(1) Any of the persons authorized by section 32 to make a demise of a settled estate, and any person entitled to the possession or to the receipt of the rents and profits of a settled estate for any greater estate than the estate mentioned in that section and the assigns of any such person may apply to the court to exercise the powers conferred by this Act.

Where jointly entitled

(2) Where two or more persons are entitled as tenants in common, joint tenants or coparceners, any or either of them may make the application. R.S.O. 1960, c. 369, s. 18.

Consent to application

19.—(1) Subject to the provisions of this section, every application to the court under this Act shall be made with the concurrence or consent of all those in existence having any estate or beneficial interest under the settlement and of all trustees having any estate or interest on behalf of any unborn child.

Notice to persons who do not consent or concur

(2) Where the concurrence or consent of any person mentioned in subsection 1 has not been obtained notice shall be given to such person in such manner as the court directs, requiring him to notify within a time to be specified in the notice whether he assents to or dissents from the application or submits his rights or interests, or so far as they may be affected by the application, to be dealt with by the court, and every notice shall specify to whom and in what manner the notification is to be delivered or left.

Effect of non-reply

(3) If no notification is delivered or left in accordance with the notice and within the time thereby limited the person to or for whom the notice has been given or left shall be deemed to have submitted his rights and interests to be dealt with by the court.

(4) Where the concurrence or consent of any such person has not been obtained, and if such person cannot be found or if it is uncertain whether he is living or dead, or if it appears to the court that the notice cannot be given to him without expense disproportionate to the value of the subject-matter of the application, the court if it thinks fit, either on the ground of the rights or interests of such person being small or remote or being similar to the rights or interests of any other person or on any other ground, may by order dispense with notice to such person, and such person shall thereupon be deemed to have submitted his rights and interests to be dealt with by the court. When court may dispense with notice

(5) An order may be made notwithstanding that the concurrence or consent of any such person has not been obtained or has been refused, but the court, in considering the application, shall have regard to the number of persons who concur in or consent to the application and who dissent therefrom or who submit or are to be deemed to submit their rights or interests to be dealt with by the court, and to the estates or interests that such persons respectively have or claim to have in the estate, and every order made upon such application has the same effect as if all such persons had been consenting parties thereto. When court may dispense with consent

(6) The court may give effect to any application subject to and so as not to affect the rights, estate or interest of any person whose concurrence or consent has been refused, or who has not submitted or is not deemed to have submitted his rights or interests to be dealt with by the court, or whose rights, estate or interest ought in the opinion of the court to be excepted. R.S.O. 1960, c. 369, s. 19. Order saving rights of non-consenting parties

20. Notice of any application under this Act shall be served on all trustees who are seized or possessed of any estate in trust for any person whose consent to or concurrence in the application is hereby required, and on any other persons who in the opinion of the court ought to be so served, unless the court dispenses with such notice. R.S.O. 1960, c. 369, s. 20. Notice to trustees, etc.

21. Notice of any application, if the court so directs but not otherwise, shall be published in such newspapers as the court directs, and any person, whether interested in the estate or not, may be heard in opposition to or in support of the application, and the court may permit such person to appear and be heard in opposition to or in support of the application on such terms as to costs or otherwise and in such manner as it thinks fit. R.S.O. 1960, c. 369, s. 21. When notice of application to be given in the newspapers

22. The court shall not grant an application where the applicant, or any person entitled, has previously applied to the Legislature for a private Act to effect the same or a similar object, Where a similar application has been rejected by the Legislature

and such application has been rejected on its merits, or reported against by the judges to whom the Bill was referred. R.S.O. 1960, c. 369, s. 22.

Application of money arising from sales, etc.

23. All money to be received on any sale effected under the authority of this Act, or to be set aside out of the rent or payments reserved on any lease of earth, coal, stone or mineral may, if the court thinks fit, be paid to any trustees of whom it shall approve, otherwise the same shall be paid into court, and such money shall be applied as the court from time to time directs to one or more of the following purposes:

1. The payment of any costs that the court orders to be paid.
2. The discharge of any encumbrance affecting the land in respect of which the money was paid, or affecting any other land subject to the same uses or trusts.
3. The purchase of other land to be settled in the same manner as the land in respect of which the money was paid.
4. The payment of the expenses connected with any buildings, repairs, rebuilding, alterations or improvements authorized to be made upon the settled estate.
5. The payment to any person becoming absolutely entitled. R.S.O. 1960, c. 369, s. 23.

Application of money in certain cases without application to court

24. The application of the money, if the court so directs, may be made by the trustees to whom the court has authorized the money to be paid, without any application to the court, or upon an order of the court upon the petition of the person who would be entitled to the possession or the receipt of the rents and profits of the land if the money had been invested in the purchase of land. R.S.O. 1960, c. 369, s. 24.

Payment of interest

25. Until the money can be so applied the interest accruing thereon shall be paid as the court directs to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land. R.S.O. 1960, c. 369, s. 25.

Application of money in respect of leases or reversions

26. Where any purchase money paid into court or to trustees under this Act has been paid in respect of a lease for a life or lives or years, or for a life or lives and years, or of any estate in land less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, the court may, on the petition of any person interested in the money, order that the interest that accrues thereon be paid in such manner as the court considers will

give to the parties interested in the money the same benefit therefrom as they might lawfully have had from the lease, estate or reversion in respect of which the money has been paid, or as near thereto as may be. R.S.O. 1960, c. 369, s. 26.

Court may exercise powers repeatedly

27.—(1) The court may exercise any of the powers conferred on it by this Act whether the court has already exercised any of such powers in respect of the same property or not, but no such powers shall be exercised if any express declaration that they shall not be exercised is contained in the settlement.

Notwithstanding express powers

(2) The circumstance that the settlement contains powers to effect similar purposes does not preclude the court from exercising any of the powers conferred by this Act if it thinks that the powers contained in the settlement ought to be extended. R.S.O. 1960, c. 369, s. 27.

Extent of powers

28. Nothing in this Act empowers the court to authorize any lease, mortgage, sale or other act beyond the extent to which, in the opinion of the court, the same might have been authorized in and by the settlement by the settlor. R.S.O. 1960, c. 369, s. 28.

Validity of acts

29. After the completion of any lease, mortgage or sale, or other act under the authority of the court and purporting to be in pursuance of this Act, the same is not invalidated on the ground that the court was not empowered to authorize the same. R.S.O. 1960, c. 369, s. 29.

Orders of court conclusive

30.—(1) An order of the court under jurisdiction conferred by this Act is not, as against a lessee, mortgagee or purchaser, invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service, whether he had or had not notice of any such want.

Scope of section

(2) This section has effect with respect to any lease, mortgage, sale or other act under the authority of the court and purporting to be in pursuance of this Act, or to be in pursuance of any former Act, notwithstanding any exception in any former Act. R.S.O. 1960, c. 369, s. 30.

Costs

31. The court may order that any costs or expenses of any persons of and incident to any application under this Act shall be a charge on the land that is the subject of the application, or on any other land included in the same settlement and subject to the same limitations, or may direct the same to be paid out of the corpus or income of any fund realized by the sale, mortgage or lease of such estate under this Act, and the court may also direct that the costs and expenses, to be taxed and paid as the court directs, shall be raised by a sale or mortgage of a sufficient part of such land or out of the rents or profits thereof. R.S.O. 1960, c. 369, s. 31.

Power to make leases for 21 years

32.—(1) The following persons, unless the settlement contains an express declaration that it is not lawful for them to make the demise, may from time to time and without any application to the court, except as hereinafter mentioned, demise the settled estate or any part thereof for any term, not exceeding twenty-one years, to take effect in possession at or within one year next after the making thereof:

1. A person entitled to the possession or to the receipt of the rents and profits of any settled estate, for an estate for life or for a term of years determinable with any life or lives or for any greater estate not holding merely under a lease at a rent.
2. A tenant in fee simple with an executory limitation, gift or disposition over on failure of his issue or in any other event.
3. A tenant for years determinable on life not holding merely under a lease at a rent.
4. A tenant for the life of another not holding merely under a lease at a rent.
5. A tenant for his own or any other life or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate or by conditional limitation or otherwise, or to be defeated by an executory limitation, gift or disposition over, or is subject to a trust for accumulation of income for payment of debts or any other purpose.
6. A person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life whether subject to expenses of management or not or until sale of the land or until forfeiture of his interest therein on bankruptcy or other event.

Curtesy and dower

(2) The powers conferred by subsection 1 may be exercised by a person entitled to the possession or to the receipt of the rents and profits of unsettled land as tenant by the curtesy or tenant in dower.

Additional powers

(3) Any of the persons empowered by subsections 1 and 2 to make a demise may also make,

(*a*) a lease for giving effect to a contract entered into by any of his predecessors in title for making a lease that, if made by the predecessor, would have been binding on the successors in title; and

(*b*) a lease for giving effect to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the settled estate; and

(*c*) a lease for confirming, as far as may be, a previous lease being void or voidable; but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted under this Act, or otherwise as the case may require.

Joint action

(4) Where two or more persons are under the same settlement or otherwise entitled in possession to concurrent estates for life, or are concurrently entitled to the possession or receipts of the rents and profits as in subsection 1 mentioned, they shall, for the purposes of this section, act concurrently.

Form of lease

(5) Every demise made under this section shall be by deed in duplicate, and for the best rent that can reasonably be obtained, which rent shall be incident to the immediate reversion and shall be made payable half-yearly or oftener.

Conditions

(6) Such demise shall not be made without impeachment of waste and shall not authorize the cutting of any timber or felling of any trees except in the ordinary course of husbandry, and shall contain a covenant for payment of the rent and such other usual and proper covenants as the lessor thinks fit, and shall be subject to the statutory right of re-entry for non-payment of rent in *The Landlord and Tenant Act*. R.S.O. 1960, c. 369, s. 32.

R.S.O. 1970, c. 236

33.—(1) Every demise of a settled estate authorized by section 32 is valid against the person granting the demise and all other persons entitled to estates subsequent to his estate under or by virtue of the same settlement.

Against whom leases valid

Idem

(2) Every demise of unsettled land by a tenant by the curtesy or by a tenant in dower is valid against the person granting the demise and all other persons entitled to an estate subsequent to the estate of such tenant. R.S.O. 1960, c. 369, s. 33.

Provisions as to persons under disability

34. All powers given by this Act, and all applications to the court under this Act and consents to and notifications respecting them, may be executed, made or given by, and all notices under this Act may be given to committees on behalf of mentally incompetent persons, and by or to trustees or assignees of the property of bankrupts, debtors in liquidation or insolvents, and the Official Guardian or any other guardian *ad litem* may consent to, and give notifications respecting such applications, and give all notices under this Act on behalf of any infant or person of unsound mind not so found; but in the case of infants or mentally incompetent persons, or persons of unsound mind not so found, all consents to or notifications or notices respecting any application so given by any committee or official guardian or other guardian *ad litem* are subject to the approbation of the court. R.S.O. 1960, c. 369, s. 34.

Married women

35. A married woman may make or consent to or oppose any application whether she is or is not of full age. R.S.O. 1960, c. 369, s. 35.

No obligation to make or consent to application

36. Nothing in this Act imposes any obligation on any person to make or consent to any application to the court or to exercise any power. R.S.O. 1960, c. 369, s. 36.

Tenants for life, etc., to be deemed entitled notwithstanding encumbrances

37. A person shall be deemed to be entitled to the possession or to the receipt of the rents and profits of an estate although his estate may be charged or encumbered, either by himself or by the settlor or otherwise, to any extent; but the estates or interests of the persons entitled to the charge or encumbrance are not affected by the acts of such persons unless they concur therein. R.S.O. 1960, c. 369, s. 37.

Powers conferred by other Acts

38. Nothing in this Act interferes with the exercise of any powers to authorize or grant leases conferred by any other statute. R.S.O. 1960, c. 369, s. 38.

CHAPTER 432

The Settlers' Pulpwood Protection Act

1. In this Act, Interpretation

(*a*) "company" means a company, partnership or individual operating in Ontario in connection with the purchasing, trading in or holding of pulpwood or pulpwood lands by contract, lease or otherwise, or manufacturing pulpwood, paper of any kind, or other products of pulpwood;

(*b*) "Minister" means the Minister of Lands and Forests;

(*c*) "regulations" means the regulations made under this Act;

(*d*) "settler" means any *bona fide* settler occupying lands under *The Public Lands Act* or engaged in agricultural pursuits involving the clearing and cultivation of land. R.S.O. 1960, c. 370, s. 1. R.S.O. 1970, c. 380

2.—(1) The Minister or any officer of the Department of Lands and Forests upon the instructions of the Minister may investigate the prices received and the terms and conditions with respect to the sale, disposal or transfer of pulpwood cut on settlers' lands. Power to investigate

(2) The Minister may require any company or settler to furnish to him in writing and under oath such information relating to sale, transfer or purchase of pulpwood as the Minister may consider necessary for the purposes of this Act. Furnishing of information

(3) Notice may be forwarded to the company or settler by registered mail, and such information as may be required under subsection 2 shall be furnished to the Minister within the time specified in the notice. R.S.O. 1960, c. 370, s. 2. Service of notice

3. Upon the recommendation of the Minister, the Lieutenant Governor in Council may make regulations, Regulations

(*a*) governing the sale and supply to any company of pulpwood cut by any settler, or of pulpwood cut from the lands of any settler;

(*b*) fixing the kinds and quantities of pulpwood that may be purchased by any company within any stated period, having regard to the requirements of such company for such period;

(*c*) fixing the prices to be paid by any company to any settler for pulpwood cut on settlers' lands and controlling the method of measuring such pulpwood; and

(*d*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 370, s. 3.

Offence

4.—(1) Every settler who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than $25 and not more than $100.

Idem

(2) Every company that contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than $500 and not more than $1,000, provided that where any servant, agent or employee of a company contravenes any of the provisions of this Act or the regulations, such company is guilty of an offence and the provisions of this subsection apply accordingly. R.S.O. 1960, c. 370, s. 4.

CHAPTER 433

The Sheridan Park Corporation Act

Interpretation

1. In this Act,

(*a*) "Corporation" means The Sheridan Park Corporation;

(*b*) "Minister" means the Minister of Trade and Development or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act. 1964, c. 109, s. 1, *amended*.

Corporation continued

2.—(1) The Sheridan Park Corporation is continued as a corporation without share capital, consisting of not fewer than three and not more than eleven members appointed by the Lieutenant Governor in Council. 1964, c. 109, s. 2 (1), *amended*.

Seal

(2) The Corporation shall have a seal which shall be adopted by resolution or by-law.

Chairman

(3) The members for the time being of the Corporation form and are its board of directors, and the Lieutenant Governor in Council shall designate one of them as chairman and one of them as vice-chairman of the board of directors.

Remuneration

(4) The chairman, vice-chairman and other directors of the Corporation shall serve without remuneration, but the Corporation may reimburse them for proper travelling and other expenses incurred in carrying out their duties under this Act.

Quorum

(5) A majority of the directors for the time being constitutes a quorum.

Application of R.S.O. 1970, c. 89

(6) *The Corporations Act* does not apply to the Corporation. 1964, c. 109, s. 2 (2-6).

Management of Corporation

3. The affairs of the Corporation are under the management and control of the board of directors for the time being of the Corporation, and the chairman shall preside at all meetings of the board of directors, or, in his absence or if the office of chairman is vacant, the vice-chairman has all the powers and shall perform all the duties of the chairman. 1964, c. 109, s. 3.

Development manager

4.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may appoint an officer of the Corporation to be known as a development manager and fix his remuneration.

Staff

(2) Subject to the approval of the Corporation, the development manager may appoint such employees as are necessary for the carrying on of the affairs of the Corporation and fix their remuneration. 1964, c. 109, s. 4.

Non-profit

5. The Corporation shall be carried on without the purpose of gain for its members, and any profits or other accretions to the Corporation shall be used in promoting its objects. 1964, c. 109, s. 5.

Objects and powers

6. The objects of the Corporation are and it has power,

(*a*) to acquire and develop,

(i) lands within the area described in the Schedule hereto, and

(ii) such other lands as the Corporation in its opinion considers necessary,

for the purposes of research and ancillary services and generally for establishing a centralized research complex;

(*b*) to sell or lease lands held by it to any person for the purposes of carrying on research or ancillary services within the centralized research complex or, if in the opinion of the Corporation any of such land is no longer required for such purposes, to sell or lease any of the land no longer so required to any person; and

(*c*) to do all such other things as in the opinion of the Corporation are necessary or desirable for establishing a centralized research complex. 1964, c. 109, s. 6; 1965, c. 123, s. 1; 1968, c. 126, s. 1.

By-laws

7. The Corporation may make by-laws regulating its proceedings and generally for the conduct and management of its affairs. 1964, c. 109, s. 7.

Borrowing powers

8.—(1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may from time to time borrow or raise by way of loan such sums of money as the Corporation may consider necessary for any of the purposes of the Corporation in any one or more, or partly in one and partly in another, of the following ways:

(*a*) by the issue and sale of debentures, bills or notes of the Corporation in such form or forms, in such denomination or denominations, bearing interest at such rate or rates and payable as to principal and interest at such time or times, in such currency or currencies and at such place or places as the board of directors may determine; and

(*b*) by temporary loans or loans from any chartered bank or banks or from any person either by way of bank overdraft or loan or in any other manner whatsoever as the board of directors may determine.

Payment of loans and indebtedness

(2) The purposes of the Corporation, without limiting the generality thereof, include,

(*a*) the carrying out of the objects of the Corporation mentioned in section 6;

(*b*) the payment, refunding or renewal from time to time of the whole or any part of any sum or sums of money raised by way of loan or of any securities issued by the Corporation; and

(*c*) the payment of the whole or any part of any obligation, liability or indebtedness of the Corporation.

Sale, etc., of Corporation's securities

(3) Subject to the approval of the Lieutenant Governor in Council, the Corporation may sell any debentures, bills or notes of the Corporation either at, or at less or more than, the par value thereof and may charge, pledge or otherwise deal with any such debentures, bills or notes as collateral security.

Authorization

(4) A recital or declaration in any resolution or minute of the board of directors, authorizing the issue and sale of debentures, bills or notes of the Corporation, to the effect that it is necessary to issue and sell such debentures, bills or notes for the purposes of the Corporation in the amount authorized, is conclusive evidence to that effect.

Sealing, signing, etc.

(5) Debentures, bills or notes of the Corporation shall be sealed with the seal of the Corporation and may be signed by the chairman or vice-chairman of the Corporation and by the secretary or other officer or director of the Corporation, and any interest coupon that may be attached to any debenture, bill or note of the Corporation may be signed by any officer of the Corporation.

Mechanical reproduction of seal and signature authorized

(6) The seal of the Corporation may be engraved, lithographed, printed or otherwise mechanically reproduced on any debenture, bill or note, and any signature upon any debenture, bill or note and upon any coupon may be engraved, lithographed, printed or otherwise mechanically reproduced, and the seal of the Corporation when so reproduced has the same force and effect as if manually affixed, and any such signature is for all purposes valid and binding upon the Corporation notwithstanding that any person whose signature is so reproduced has ceased to hold office.

Securities of Corporation redeemable in advance

(7) Any debenture, bill or note of the Corporation may be made redeemable in advance of maturity at such time or times, at

such price or prices and on such terms and conditions as the board of directors may determine at the time of the issue thereof.

Lost debentures

(8) Where a debenture, bill or note of the Corporation is defaced, lost or destroyed, the board of directors may provide for its replacement on such terms as to evidence and as to indemnity as the board of directors may require. 1964, c. 109, s. 8.

Guarantee of payment by Province of Ontario

9.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of Ontario of any debentures, bills or notes issued by or of any temporary loan made to the Corporation under the authority of this Act, provided the total amount guaranteed by the Province of Ontario under this Act shall not exceed $2,000,000.

Form of guaranty

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant Governor in Council.

Validity of guaranty

(3) Every guaranty given or purporting to be given under the authority of this section is binding upon the Province of Ontario and is not open to question upon any ground whatsoever.

Guaranteed debentures, etc., to be indefeasible

(4) Any debenture, bill or note issued by or temporary loan made to the Corporation, payment whereof is guaranteed by the Province of Ontario under this section, is valid and binding upon the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed is not open to question on any ground whatsoever. 1964, c. 109, s. 9.

Sale of Corporation's securities to Ontario and provincial advances to Corporation authorized

10.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario,

(*a*) to purchase any debentures, bills or notes of the Corporation; and

(*b*) to make advances to the Corporation in such amounts, at such times and on such terms and conditions as the Lieutenant Governor in Council may consider expedient.

Idem

(2) The moneys required for the purposes of subsection 1 shall be paid out of the Consolidated Revenue Fund. 1964, c. 109, s. 10.

Trustees, etc., investments in debentures

11. Notwithstanding anything in any other Act, debentures issued by the Corporation and guaranteed by the Province of Ontario are at all times a lawful investment for municipal, school and trust funds. 1964, c. 109, s. 11.

Fiscal year

12. The fiscal year of the Corporation commences on the 1st day of April in each year and ends on the 31st day of March in the following year. 1964, c. 109, s. 12.

13. The accounts and financial transactions of the Corporation shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Corporation and to the Minister. 1964, c. 109, s. 13. Audit

14. The Corporation shall make a report annually to the Minister upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1964, c. 109, s. 14. Annual report

SCHEDULE

ALL AND SINGULAR that certain parcel or tract of land situate, lying and being in the Township of Toronto, in the County of Peel, in the Province of Ontario, and being composed of part of Lots 34 and 35, in the first concession, South of Dundas Street in the said Township of Toronto, and which parcel of land may be more particularly described as follows:

COMMENCING at a point in the south-easterly limit of a plan deposited with the Department of Land Titles as C.T.A. Plan 137, and which point marked by a standard iron bar is the most southerly angle of the land of the British American Oil Company Limited as shown on Instrument number 147061, and distant 500 feet measured South 38° 36′ West along the said south-easterly limit, from the most easterly angle of the said plan C.T.A. 137;

THENCE South 38° 36′ West along the said south-easterly limit, being also the most north-westerly limit of a plan deposited in the Registry Office for the Registry Division of the County of Peel as number 87556, 273.21 feet to a concrete monument found at an angle in the same;

THENCE South 75° 35′ West along the last mentioned limit, 79.88 feet to a concrete monument found at the most southerly angle of the said C.T.A. plan 137;

THENCE North 67° 25′ 30″ West along the south-westerly limit of the said C.T.A. plan 137, a distance of 520.16 feet to a concrete monument found at an angle in the same;

THENCE South 45° 13′ 30″ West continuing along the said limit, 124.86 feet to a concrete monument found;

THENCE South 72° 47′ West continuing along the said limit, 88.55 feet to a concrete monument found;

THENCE North 79° 26′ 55″ West continuing along the said limit 143.52 feet to a concrete monument found;

THENCE North 61° 17′ 30″ West continuing along the said limit, 324.20 feet to a concrete monument found in the south-westerly limit, being also the north-easterly limit of the allowance for road between the Township of Toronto and the Town of Oakville;

THENCE North 44° 47′ 30″ West continuing along the said south-westerly limit, 2012.12 feet to a standard iron bar found at the most westerly angle of Part 1 of the said C.T.A. plan 137;

THENCE North 39° 11′ East along the north-westerly limit of the said Part 1 of C.T.A. plan 137, being also the south-easterly limit of the land of The Hydro-Electric Power Commission of Ontario, a distance of 1387.17 feet to a standard iron bar found at the most northerly angle of the said Part 1 of C.T.A. plan 137;

THENCE North 39° 12′ 20″ East along the south-easterly limit of the said land of The Hydro-Electric Power Commission of Ontario, 76.33 feet to a standard iron bar planted at the most westerly angle of the land previously conveyed by United Lands Corporation Limited to the Ontario Research Foundation and described in Instrument number 152566;

THENCE south-easterly on a curve to the right of radius 1375 feet along the south-westerly limit of the said land, an arc distance of 100.02 feet having a chord of 100 feet, on a bearing of South 19° 21′ 48″ East to an iron bar found;

THENCE North 76° 30′ 50″ East continuing along the south-westerly limit of the said land, 376.64 feet to a standard iron bar found;

THENCE South 8° 03′ 35″ East continuing along the south-westerly limit of the said land, 589.72 feet to an iron bar found in the north-easterly limit of the aforesaid C.T.A plan 137;

THENCE South 44° 47′ East along the last mentioned limit 123.65 feet to a standard iron bar found at an angle in the same;

THENCE South 45° 53′ 30″ East continuing along the said north-easterly limit, 132.54 feet to a standard iron bar found;

THENCE North 85° 24′ 10″ East continuing along the aforesaid south-westerly limit of the land previously conveyed by United Lands Corporation Limited to the Ontario Research Foundation, 498.10 feet to an iron bar found;

THENCE North 43° 32′ 20″ East continuing along the last mentioned limit, 505.25 feet to a standard iron bar found;

THENCE South 51° 25′ 10″ East continuing along the last mentioned limit, 380 feet to an iron bar found in the north-westerly limit of the land previously conveyed by United Lands Corporation Limited to the Township of Toronto, for the purpose of a Public Highway, and described in Instrument number 151740;

THENCE South 38° 34′ 50″ West along the last mentioned north-westerly limit, 112 feet to an iron bar found at the most westerly angle of the last said land;

THENCE South 51° 25′ 10″ East along the south-westerly limit of the said land, 86 feet to an iron bar found;

THENCE North 38° 34′ 50″ East along the south-easterly limit of the said land for use as a Public Highway, 112.03 feet to an iron bar found at the most westerly angle of the land previously conveyed by United Lands Corporation Limited to the International Nickel Company of Canada Limited, and described in Instrument number 153839;

THENCE South 51° 25′ East along the south-westerly limit of the last mentioned land, 19.62 feet to an iron bar found in the north-westerly limit of the land of the British American Oil Company Limited, as described in Instrument number 147061;

THENCE South 38° 34′ 50″ West along the north-westerly limit of the last mentioned land, 935.24 feet to a standard iron bar found at an angle in the same;

THENCE South 38° 36′ West continuing along the said north-westerly limit and production south-westerly therealong, 615.92 feet to a standard iron bar found at the most westerly angle of the land previously conveyed by United Lands Corporation Limited to the British American Oil Company Limited;

THENCE South 51° 24′ East along the south-westerly limit of the last mentioned land, 1149.52 feet more or less to the point of commencement;

ALL of which contains by admeasurement 91.223 acres be the same more or less, and shown on a plan of survey by McConnell-Jackson, Ontario Land Surveyors, dated November 23rd, 1962, and revised January 4th, 1963.

— AND —

PREMISING that the bearings herein are referred to the north-westerly limit of the land of the Department of Highways of Ontario, as shown on Deposited Plan number 90890, and assumed to be North 38° 35′ East;

ALL AND SINGULAR that certain parcel or tract of land situate, lying and being in the Township of Toronto, in the County of Peel, in the Province of Ontario, and being composed of part of Lots 32 and 33, in the first concession, South of Dundas Street in the said Township of Toronto, and which parcel of land may be more particularly described as follows:

COMMENCING at a standard iron bar found in the north-westerly limit of the North Service Road of the Queen Elizabeth Way, as shown on a plan deposited in the Registry Office for the Registry Division of the County of Peel as number 90890, and which standard iron bar marks the southerly corner of the land of Culligan of Canada Limited, as described in Instrument number 143771, and which corner may be more particularly located as follows: commencing at the most easterly corner of the said Lot 32; thence North 45° 17′ West along the north-easterly limit of the said Lot 32, a distance of 134.89 feet to an iron bar found at its intersection with the aforesaid north-westerly limit of deposited plan number 90890; thence South 38° 06′ West along the last mentioned limit, 31.37 feet to a standard iron bar found at an angle in the same; thence South 38° 35′ West, 433.63 feet to the point of commencement;

THENCE South 38° 35′ West continuing along the said north-westerly limit, 66 feet to a standard iron bar found at the most easterly angle of the land of Beaver Lumber Company Limited, as described in Instrument number 129026;

THENCE North 51° 25′ West along the north-easterly limit of the last said land, 480 feet to a standard iron bar found at the most northerly corner of the said land of Beaver Lumber Company Limited;

THENCE South 38° 35′ West along the north-westerly limit of the last described land, 650 feet to a standard iron bar found at the most westerly angle of the last said land, being a point in the north-easterly limit of the land of Mallory Battery Company of Canada Limited, according to Instrument number 136722;

THENCE North 51° 25′ West along the said north-easterly limit, 220 feet to an iron bar found at the most northerly angle of the said land;

THENCE South 38° 35′ West along the north-westerly limit of the last said land, 71.90 feet to an iron bar found at the most easterly angle of the land conveyed by United Lands Corporation Limited to Consolidated Mining and Smelting Company of Canada Limited, according to Instrument number 153372;

THENCE North 51° 25′ West along the north-easterly limit of the last mentioned land and production north-westerly thereof, 556.03 feet to an iron bar found at the most northerly angle of the land previously conveyed by United Lands Corporation Limited to the Township of Toronto for use as a Public Highway as described in Instrument number 151740;

THENCE South 38° 34′ 50″ West along the north-westerly limit of the said land of Toronto Township, 261.10 feet to a standard iron bar found at the most south-easterly angle of the land of the Ontario Research Foundation, previously conveyed by United Lands Corporation Limited and described in Instrument number 152566;

THENCE North 51° 25′ 10″ West along the north-easterly limit of the land of the Ontario Research Foundation, 380 feet to an iron bar found;

THENCE North 38° 34′ 50″ East along the south-easterly limit of the said land of the Ontario Research Foundation, 539.20 feet to an iron bar found;

THENCE North 47° 34′ 30″ West along the north-easterly limit of the last mentioned land, 450.58 feet to an iron bar found;

THENCE North 79° 29′ 55″ West continuing along the said north-easterly limit, 760 feet to an iron bar found;

THENCE North 56° 05′ 50″ West continuing along the said north-easterly limit, 262.89 feet to a standard iron bar found in the south-easterly limit of the land of The Hydro-Electric Power Commission of Ontario, as described in Instrument number 85997, being also the most northerly corner of the aforesaid land of the Ontario Research Foundation;

THENCE North 39° 12′ 20″ East along the said south-easterly limit of The Hydro-Electric Power Commission of Ontario land, 1045.80 feet to a standard iron bar found at the most westerly angle of the land of Toronto Township, as described in Instrument number 101380;

THENCE South 50° 47′ 10″ East along the south-westerly limit of the last mentioned land, 400 feet to a standard iron bar found at the most southerly angle of the said land;

THENCE North 39° 12′ 20″ East along the south-westerly limit of the said land, 578.58 feet to a standard iron bar found at the most easterly angle of the said land, being a point in the north-easterly limit of the aforesaid Lot 32;

THENCE South 45° 00′ 40″ East along the said north-easterly limit, 457.57 feet to a standard iron bar found;

THENCE South 44° 51′ 10″ East continuing along the said north-easterly limit, 139.58 feet to a standard iron bar found;

THENCE South 44° 56′ 10″ East continuing along the said north-easterly limit, 193.24 feet to a standard iron bar found;

THENCE South 45° 16′ 20″ East continuing along the said north-easterly limit, 259.46 feet to a standard iron bar found;

THENCE South 44° 39′ 30″ East continuing along the said north-easterly limit, 409.47 feet to a standard iron bar found;

THENCE South 44° 54′ 10″ East continuing along the said north-easterly limit, 75.49 feet to an iron tube found;

THENCE South 44° 51′ 50″ East continuing along the said north-easterly limit, 600.33 feet to a standard iron bar found at the most northerly angle of the land of Canadian Broomwade Limited as described in Instrument number 127809;

THENCE South 38° 35′ West along the north-westerly limit of the last mentioned land, and the north-westerly limit of the aforesaid land of Culligan of Canada Limited, a distance of 519.29 feet to a standard iron bar found at the most westerly angle of the land of Culligan of Canada Limited;

THENCE South 51° 25′ East along the south-west limit of the last mentioned land, 479.45 feet more or less to the point of commencement;

ALL of which contains by admeasurement 76.794 acres be the same more or less, and shown on a plan of survey by McConnell-Jackson, Ontario Land Surveyors, dated November 23rd, 1962, and revised December 17th, 1962.

SUBJECT to rights of easements over the land hereinbefore described and more particularly described as follows:

Firstly:

COMMENCING at the most southerly corner of the land of Culligan of Canada Limited, as described in Instrument number 143771, being a point in the north-westerly limit of the North Service Road of the Queen Elizabeth Way, as shown on a plan deposited in the Registry Office for the Registry Division of the County of Peel as number 90890, and which point may be located by beginning at the most easterly angle of the said Lot 32; thence North 45° 17′ West along the north-easterly limit of the said Lot 32, a distance of 134.89 feet to its intersection with the said north-westerly limit of the North Service Road; thence South 38° 06′ West along the said north-westerly limit, 31.37 feet to an angle in the same; thence South 38° 35′ West continuing along the said north-westerly limit, 433.63 feet to the point of commencement;

THENCE South 38° 35′ West continuing along the said north-westerly limit of the North Service Road, 66 feet to the most easterly angle of the land of Beaver Lumber Company Limited, as described in Instrument number 129026;

THENCE North 51° 25′ West along the north-easterly limit of the last mentioned land, 480 feet to the most northerly corner of the said land of Beaver Lumber Company Limited;

THENCE North 39° 03′ 40″ East, 28 feet to a point;

THENCE North 51° 23′ West, 856.49 feet to a point;

THENCE North 38° 34′ 50″ East, 408.23 feet to a point;

THENCE North 49.54 feet on a curve to the left of radius 34 feet, having a chord of 45.27 feet on a bearing of North 3° 09′ 40″ West to a point;

THENCE North 44° 54′ 10″ West, 450.36 feet to a point in the south-westerly limit of a 66-foot easement granted to the Township of Toronto, and described in Instrument number 101380, which point is situated in the production south-westerly of the north-westerly limit of Fowler Drive, as shown on a plan registered in the Registry Office for the Registry Division of the County of Peel as number 471, and distant 217.18 feet measured south-westerly therealong from the most westerly angle of the said Fowler Drive;

THENCE North 39° 12′ 50″ East along the said production line, 217.18 feet to a round iron bar found at the most westerly angle of the aforesaid Fowler Drive;

THENCE South 45° 16′ 10″ East along the south-westerly limit of the said Registered Plan number 471, a distance of 66.43 feet to a round iron bar found at the most southerly angle of the said Fowler Drive;

THENCE South 39° 12′ 50″ West along the production south-westerly of the south-easterly limit of the aforesaid Fowler Drive, 150.89 feet to a point;

THENCE South 44° 54′ 10″ East, 391.02 feet to a point;

THENCE 145.71 feet on a curve to the right of radius 100 feet, having a chord of 133.15 feet, on a bearing of South 3° 09′ 40″ East to a point;

THENCE South 38° 34′ 50″ West, 375.27 feet to a point;

THENCE South 51° 23′ East, 120 feet to a point;

THENCE North 38° 34′ 50″ East, 5 feet to a point;

THENCE South 51° 23′ East, 670.81 feet to the most westerly angle of the aforesaid land of Culligan of Canada Limited;

THENCE South 51° 25′ East along the south-westerly limit of the last said land, 479.45 feet more or less to the point of commencement.

Secondly:

A 66-foot easement as described in Instrument number 101380, being a strip of land 66 feet in perpendicular width lying 33 feet either side of a centre line, and which centre line is more particularly described as follows:

COMMENCING at the point of intersection of a centre line of Fowler Drive, as shown on a plan registered in the Registry Office for the Registry Division of the County of Peel as number 471, with the south-westerly limit of the said Registered Plan number 471;

THENCE South 39° 26′ West along the production south-westerly of the said centre line of Fowler Drive, 183.15 feet to a point;

THENCE North 45° 01′ 30″ West, 822.67 feet to a point in the south-easterly limit of the land of the Township of Toronto, as described in Instrument number 101380, and which point is distant 183.15 feet, measured South 39° 12′ 20″ West from the most easterly angle of the last mentioned land. 1964, c. 109, Schedule.

CHAPTER 434

The Sheriffs Act

Appointment of sheriff and staff

1.—(1) The Lieutenant Governor in Council may, by a commission under the Great Seal, appoint a sheriff for each county and district, and may appoint such persons to the staff of the sheriff's office as are considered necessary and may fix their position specifications, salary ranges, and terms and conditions of employment.

Temporary appointments

(2) The Minister of Justice and Attorney General, or any public servant designated by him in writing for the purpose, may make temporary appointments to the staff of the sheriff's office for a term not exceeding one year. 1965, c. 124, s. 1, *amended*.

Security

2.—(1) The Lieutenant Governor in Council may fix and determine the amount of the security to be furnished on behalf of every sheriff, but such amount shall not in any case be less than $3,000.

How furnished R.S.O. 1970, c. 382

(2) The security shall be furnished in accordance with *The Public Officers Act* and any order in council made under the authority thereof, and within one month after the appointment of the sheriff and before he is sworn into office.

Revocation of appointment on failure to furnish

(3) In case the security is not furnished within such period, or within such further period as the Lieutenant Governor in Council may prescribe, the Lieutenant Governor in Council may revoke the appointment of the sheriff, and his appointment and commission is void from and after the date of the revocation.

Changes in boundaries of bailiwick not to affect security

(4) The security is not affected nor is the surety released wholly or in part from the obligation assumed by reason of any change by legislative authority or otherwise in the boundaries of the county or district for which the sheriff was appointed, or by reason of any change in his duties.

Right to examine security

(5) Any person may examine the security furnished on behalf of a sheriff and is entitled to take a copy thereof.

Action against surety

(6) Her Majesty, or any person sustaining damage by reason of the default or misconduct of a sheriff, in addition to any right of action against the sheriff, may bring and maintain an action against the surety alone, and the action is not barred by reason of a prior recovery by the same person upon the same security or by reason of a judgment rendered for the defendant in a prior action upon the same security or by reason of any other action being then pending upon the security at the suit of the same plaintiff or any

other person for any other distinct cause of action; except that if the plaintiff has recovered damages in an action against the sheriff for any such default or misconduct and the amount recovered or any part thereof has been paid to the plaintiff, no action lies against the surety for the same cause, except for any amount so recovered and remaining unpaid.

Judgment for balance of amount of security where surety has already been held liable

(7) If upon the trial of an action brought against a surety it appears that the plaintiff is entitled to recover, and that the amount that the surety has paid or has become liable to pay under a judgment recovered against him is not equal to the full amount of the security, the court, after deducting from the full amount the sum that the surety has paid or become liable to pay as aforesaid, shall render judgment against the surety for any sum not exceeding the balance of the sum for which he became surety.

Discharge of surety on payment of full amount

(8) If the surety has actually and *bona fide* paid out of his own money or effects, or has become liable by virtue of a judgment recovered upon the security to pay an amount equal to the amount specified therein the security shall be deemed to be discharged and satisfied, and no other or further sum shall be recovered thereunder.

Staying of further proceedings against surety

(9) The court in which an action on the security is pending, upon proof of such payment or liability, and at any stage of the action, may in a summary manner prevent the recovery against the surety of any further sum than that specified in the security.

Security to extend to acts, or omissions of deputy or sheriff *pro tem*

(10) The security extends to the acts and omissions of the deputy of the sheriff, and, in case of a vacancy in the office of sheriff by death, resignation or otherwise, the security continues and is enforceable with respect to any act or omission of the deputy sheriff or of a sheriff *pro tempore* acting in pursuance of this Act or of any deputy sheriff appointed by such sheriff *pro tempore*, in pursuance of this Act. R.S.O. 1960, c. 371, s. 2.

Sheriff, etc., not to trade

3. A sheriff or deputy shall not, directly or indirectly, keep a shop, or trade or traffic in goods, wares, or merchandise, either by wholesale or retail. R.S.O. 1960, c. 371, s. 3.

Sheriff, etc., not to purchase at sales under execution

4. A sheriff, deputy sheriff, coroner, elisor, bailiff or constable shall not, directly or indirectly, purchase any goods or chattels, lands or tenements by him exposed to sale under legal process. R.S.O. 1960, c. 371, s. 4.

Misconduct of coroner, elisor, bailiff or constable

5. Every coroner, elisor, bailiff or constable entrusted with the execution of any writ, warrant or process who wilfully misconducts himself in the execution of the same, or wilfully makes any false return to such writ, warrant or process, unless by the consent of the party in whose favour the same may have issued, is guilty of

an offence and on summary conviction is liable to a fine of not more than $200 and to imprisonment for a term of not more than six months, and shall answer in damages to any person aggrieved by the misconduct or false return. R.S.O. 1960, c. 371, s. 5.

Liability of sheriff, etc., for escape

6. If a debtor in execution escapes out of legal custody, the sheriff, bailiff, or other person having the custody of the debtor is liable only to an action for the damages sustained by the person at whose suit the debtor was taken or imprisoned, and is not liable to any other action in consequence of his escape. R.S.O. 1960, c. 371, s. 6.

Forfeiture of office for false return

7. A sheriff who wilfully makes any false return to any process directed to him and placed in his hands for execution, unless by consent of both parties to the same, is liable to forfeit his office. R.S.O. 1960, c. 371, s. 7.

Actions against sheriffs

8. Where an action is brought against a sheriff and a party thereto requires it to be tried by a jury the trial shall take place in such county or district as the court or a judge may direct. R.S.O. 1960, c. 371, s. 8.

Endorsement of receipt of process; non-service; re-delivery to plaintiff; costs of service

9. Upon the delivery of a writ of summons at the office of a sheriff, to be served by him, he or his deputy or clerk, shall endorse thereon the time when it was so delivered, and in case the writ is not fully and completely served within ten days after the delivery, the plaintiff is entitled to receive it back, and the sheriff, deputy sheriff or clerk shall endorse thereon the time of the delivery back; and the cost of the mileage and service of the writ by a literate person afterwards, if the person to be served was at any time during the ten days within the county or district, shall be allowed in the taxation of costs, as if the service had been by the sheriff or his officer. R.S.O. 1960, c. 371, s. 9.

Failure by sheriff to redeliver

10. If the sheriff, being applied to, does not return the writ, after the expiration of the ten days, the plaintiff may issue a duplicate or concurrent writ on the *praecipe* already filed, and the costs of the first or other writ not returned may be charged against and recovered from the sheriff by the plaintiff. R.S.O. 1960, c. 371, s. 10.

Certificate as to executions

11.—(1) Where, for the purpose of investigating or establishing some title to land, a certificate respecting executions against lands is required from a sheriff, the sheriff if so requested, shall include in one certificate any number of names not exceeding fifteen in respect of which the certificates may be required in the same matter or investigation.

Sheriff to include certificates under R.S.O. 1970, c. 97

(2) The sheriff shall, in such certificate, include all certificates of proof of claims under *The Creditors' Relief Act* that may be in his hands affecting lands.

Fees

(3) The maximum fees payable to a sheriff in respect of such certificate is $6. R.S.O. 1960, c. 371, s. 11.

Office hours

12. Except on Saturdays and holidays when they shall be closed, every sheriff's office shall be kept open from 9.30 a.m. until 4.30 p.m. R.S.O. 1960, c. 371, s. 12.

Books to be kept

13. The sheriff shall keep in his office,

(*a*) process books in which shall be entered a memorandum of every process other than writs of execution or writs in the nature of writs of execution, received by him, the court out of which the process issued, the date of the receipt, the nature of the process, the names of the parties thereto, the solicitor by whom issued, what was done thereunder or therewith and the date and the nature of the return made thereto;

(*b*) execution books in which shall be entered a memorandum of every writ of execution, or writ in the nature of a writ of execution received by him, the court out of which the writ issued, the date of the receipt, the nature of the writ, the names of the parties thereto, the solicitor by whom issued, what was done thereunder or therewith and the date and the nature of the return made thereto, or what was done thereunder or therewith;

(*c*) a cash book in which shall be entered all moneys received or paid by the sheriff in his official capacity, or in connection with his office, for any service whatever, for fees, poundage, service of process and papers, attendance at courts, moneys levied or collected under execution, or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment and the cause, matter or service in, or on account of which the same was received or paid;

(*d*) a separate book in which shall be entered from day to day all fees and emoluments received by him by virtue of his office, and the several amounts disbursed by him in carrying on the work of his office;

(*e*) such other books as the Lieutenant Governor in Council may require. R.S.O. 1960, c. 371, s. 13 (1).

Return of fees to Inspector of Legal Offices

14. The sheriff shall, on or before the 15th day of January in every year, make, to the Inspector of Legal Offices, a return under oath of the aggregate amount of the fees and emoluments received by him, and of his disbursements, during the previous year, up to and including the 31st day of December. R.S.O. 1960, c. 371, s. 14.

15. The sheriff shall, quarterly and within twenty days after the expiration of each quarterly period, transmit to the Inspector of Legal Offices a just, true and faithful account, verified upon oath, of all fines, penalties, and forfeitures that he has been required to levy and make by any lawful authority, and of the receipt and application of the same, or the reason why the same have not been received and applied, and he shall pay over to the proper officer or to the person lawfully entitled to receive the same the several sums collected by him, within twenty days next after the period within which the same have been collected. R.S.O. 1960, c. 371, s. 16. Sheriff to make quarterly returns of fines, etc.

16. The sheriff shall give his attendance upon the judges for the maintenance of good order in Her Majesty's courts, and for the doing and executing of all other things that appertain to the office of sheriff in such case. R.S.O. 1960, c. 371, s. 17. Duty of sheriff as regards sittings of courts

17. The sheriff has the appointment and control of the constables at the sittings of the High Court, the county court, the court of general sessions of the peace, and other courts at which the attendance of the sheriff is required. R.S.O. 1960, c. 371, s. 18. Appointment of constables

18. Where a sheriff is directed by the court to perform any service or do any act for which no fee is provided the sheriff may be allowed such fee as the court may think fit, and it shall be payable as the court may direct. R.S.O. 1960, c. 371, s. 19. Fees of sheriff when acting under order of court

19. The sheriff may at the time of the delivery demand from any person delivering a process or attachment to him to be executed, the fees allowed to him by the tariff for receiving the writ or order and for warrant and return, and a reasonable sum for mileage and the fees and mileage so paid shall, if afterwards collected from the debtor, be repaid by the sheriff to the person who issued such process or attachment. R.S.O. 1960, c. 371, s. 20. Demanding fees on executions in advance

20.—(1) After the expiration of one month from the service of his bill of costs, fees and expenses against a solicitor, the sheriff may serve the solicitor with a notice of an application to the Supreme Court or a judge thereof, or to a judge of a county or district court, returnable not earlier than eight days from the day of service, for payment of the amount of the bill, and the amount claimed shall be stated in the notice. Actions for fees

(2) On the return of the notice, the court or judge may, without reference, direct the payment to the sheriff of the amount of his demand, or of any less amount, either without costs, or with costs to be fixed by an order or to be taxed; or the court or judge may order the bill and the demand thereon to be taxed by the proper Proceedings on return of notice

officer, and may direct that the officer shall tax to the party entitled thereto his costs of the reference, and may also direct that the sheriff and the solicitor shall respectively pay what may be found due to the other upon the conclusion of the reference and taxation; and the court or judge making the reference shall restrain the bringing of any action pending the reference, and in case the order of reference does not make provision in this behalf, the officer named in the order of reference may, in his discretion, having regard to the matters in dispute between the parties and occasioning the costs, tax the costs of the order and reference, or any part thereof, in favour of either party, or may disallow any part thereof.

Execution for amount payable

(3) At the expiration of eight days from the date of the order or of the certificate of the taxing officer, as the case may be, the party entitled to payment may sue out a writ of execution for the amount ordered or certified to be payable to him. R.S.O. 1960, c. 371, s. 21.

When deputy sheriff to act as sheriff

21.—(1) When the office of sheriff becomes vacant or the sheriff is unable to act, the deputy sheriff shall perform the duties of sheriff until a sheriff is appointed and sworn into office or until the sheriff is able to act, and the deputy sheriff is answerable for the execution of the office during such interval as the sheriff would by law have been if he had continued to be in office or to act, and the security given to the sheriff by the deputy sheriff and his pledges, as well as the security furnished on behalf of the sheriff, remains and is a security to Her Majesty and to all persons whomsoever for the performance by the deputy sheriff of the duties of the office during such interval. 1966, c. 144, s. 1 (1).

Where there is no deputy sheriff

(2) Where the office of sheriff becomes vacant and there is no deputy sheriff, the Crown attorney for the county or district, as the case may be, shall be the sheriff *pro tempore* until another person is appointed sheriff, and the Crown attorney on becoming sheriff *pro tempore* may appoint a deputy sheriff, and shall do and perform every other act, matter or thing necessary for the execution of the office. R.S.O. 1960, c. 371, s. 22 (2); 1966, c. 144, s. 1 (2).

Temporary officer to be responsible

(3) During such interval the sheriff *pro tempore* is answerable for the execution of the office, as the sheriff would by law have been if he had continued to be in office or to act, and any security given by or furnished on behalf of the sheriff remains and is a security to Her Majesty, and to all persons whomsoever, for the performance of the duties of the office by the sheriff *pro tempore* and his deputy. R.S.O. 1960, c. 371, s. 22 (3); 1966, c. 144, s. 1 (3).

All books, etc., to be the property of the Government

22. All books, accounts, records, papers, writs, warrants, process, moneys, and other matters and things in the possession or under the control of a sheriff by virtue of, or appertaining to his

office, are the property of Her Majesty, and upon the death, resignation or removal from office of the sheriff they shall, by the person in whose possession or control they may happen to be or may come, be immediately handed over to and shall be taken possession of by the successor in office of the sheriff, or such person as the Lieutenant Governor in Council may appoint to receive them. R.S.O. 1960, c. 371, s. 23.

No one but the succeeding sheriff to hold books, etc., on pain of fine and imprisonment

23. No person, except the successor in office of the sheriff so dying, resigning or removed, or the person appointed by the Lieutenant Governor in Council as aforesaid, shall take, have or hold such books, accounts, records, papers, writs, warrants, process, moneys, or other matters or things, and any person having or holding any of them shall forthwith on demand deliver them over to the succeeding sheriff, or to the person appointed as aforesaid, and, upon default, is guilty of an offence and on summary conviction is liable to a fine of not less than $10 and not more than $50, besides costs, for every day's default, and is also liable to imprisonment for a term of not more than three months, unless the fine and costs are sooner paid. R.S.O. 1960, c. 371, s. 24.

Disposal of records

24. The books referred to in section 13 and all other books, records, processes and documents not pertaining solely to the administration of the staff and management of the office shall be retained by the sheriff for a period of at least twenty years after such books, records, processes and documents cease to be in current use and thereafter may be disposed of in the manner provided in section 3 of *The Archives Act*. 1968-69, c. 118, s. 1.

R.S.O. 1970, c. 28

Proceedings on removal, etc., of sheriff

25.—(1) Upon the removal of a sheriff from office or upon his resignation and the appointment of his successor, the outgoing sheriff, or, in the event of the death of a sheriff, the deputy sheriff or sheriff *pro tempore* shall forthwith make out and deliver to the incoming sheriff a true and correct list and account, under his hand, of all writs and process in his hands not wholly executed by him, with all such particulars as are necessary to explain to the incoming sheriff the matters intended to be transferred to him, and shall thereupon hand over and transfer to the care and custody of the incoming sheriff all such writs and process, and all records, books and matters appertaining to the office of sheriff.

Duty of incoming sheriff

(2) The incoming sheriff shall thereupon sign and deliver a duplicate of the list and account to the outgoing sheriff, or to the deputy sheriff, or sheriff *pro tempore*, to whom the same is a good and sufficient discharge from the execution of the writs and process mentioned therein, without any writ of discharge or other writ whatsoever, and the incoming sheriff thereupon is fully and effectually charged with the execution and care of the writs and process mentioned in the list and account.

Penalty

(3) If the outgoing sheriff, or the deputy sheriff or the sheriff *pro tempore* refuses or neglects to make out, sign and deliver the list and account, and to hand over the writs and process in manner aforesaid, he is liable to any person aggrieved for the damages and costs sustained by such neglect or refusal. R.S.O. 1960, c. 371, s. 25.

Sheriffs resigning, etc., may examine and inspect books, etc.

26. A sheriff, after resigning or being removed or in case of the death of a sheriff, his heirs, executors, or administrators have, at all times, the right, free of charge, to have access to, and to search and examine into all accounts, books, papers, writs, warrants and process of whatever kind, and all other matters and things that were in his possession before his death, resignation or removal, and that, at the time of making or requiring to make such search or examination, are in the possession or control of the succeeding sheriff or the then sheriff of the county or district. R.S.O. 1960, c. 371, s. 26.

Conveyances in case of death, etc., of sheriff who has sold lands

27. In case of the death, resignation or removal from office of a sheriff, or of a deputy sheriff while there is no sheriff, or of a sheriff *pro tempore*, after he has made a sale of lands, but before he has made the deed of conveyance of the lands to the purchaser, and whether the sale was under an execution or for arrears of taxes the deed of conveyance shall be made to the purchaser by the sheriff, or by the deputy sheriff who is in office acting as sheriff, or by the sheriff *pro tempore*, at the time when the deed of conveyance is made. R.S.O. 1960, c. 371, s. 27.

Continuation of actions after death, etc., of sheriff

28. In case of the death, resignation or removal from office of a sheriff after action brought by him as sheriff, the action may be continued in the name of his successor, to whom the benefit of all securities given to the sheriff in his official capacity enure. R.S.O. 1960, c. 371, s. 28.

CHAPTER 435

The Short Forms of Conveyances Act

Interpretation

1. In this Act,

(*a*) "land" includes freehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein;

(*b*) "party" and "parties" include a body politic or corporate as well as an individual. R.S.O. 1960, c. 372, s. 1.

Effect of deed made according to Schedule A and Col. 1 of Schedule B

2. Where a deed of land made according to the form set forth in Schedule A, or any other deed of land expressed to be made in pursuance of this Act or referring thereto, contains any of the forms of words contained in Column One of Schedule B and distinguished by any number therein, the deed has the same effect as if it contained the form of words in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the deed but it is not necessary in any such deed to insert any such number. R.S.O. 1960, c. 372, s. 2.

Parties may substitute names for "grantor" or "grantee"

3.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the word "grantor" or "grantee" any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column.

and feminine for masculine or plural for singular

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

and may introduce exceptions or qualifications

(3) Such parties may introduce into, or annex to, any of the forms in the first column any express exceptions from or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

and may add names or designations

(4) Such parties may add the name or other designation of any person or persons, or class or classes of persons, or any other words at the end of form two of the first column, so as thereby to extend the words thereof to the acts of any additional person or persons, or class or classes of persons, or of all persons whomsoever, and in every such case the covenants 2, 3 and 4, or such of them as may

be employed in the deed, shall be taken to extend to the acts of the person or persons, class or classes of persons so named. R.S.O. 1960, c. 372, s. 3.

Effect of deeds failing to take effect under this Act

4. Any deed or part of a deed that fails to take effect by virtue of this Act is nevertheless as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1960, c. 372, s. 4.

SCHEDULE A

FORM OF DEED

This Indenture made the.....day of....., one thousand nine hundred and....., in pursuance of *The Short Forms of Conveyances Act*, between (*here insert names of parties and recitals, if any*), Witnesseth, that in consideration of.....now paid by the said (*grantee*) to the said (*grantor*) the receipt whereof is hereby by him acknowledged, he the said (*grantor*) doth grant unto the said (*grantee*) in fee simple (*or otherwise as the case may be*) all, etc., (*parcels*).....

(*Here insert covenants, or any other provisions*)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1960, c. 372, Sched. A.

SCHEDULE B

COLUMN ONE	COLUMN TWO
1. The said grantor covenants with the said grantee:	1. And the said grantor doth hereby, for himself, his heirs, executors, administrators and successors, covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators, successors and assigns, in manner following, that is to say:
2. That he has the right to convey the said lands to the said grantee notwithstanding any act of the said grantor.	2. That for and notwithstanding any act, deed, matter or thing by the said grantor done, executed, committed, or knowingly or wilfully permitted or suffered to the contrary, he, the said grantor, now hath in himself good right, full power and absolute authority to convey the said lands, and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto the said grantee, in manner aforesaid, and according to the true intent of these presents.

COLUMN ONE	COLUMN TWO
3. And that the said grantee shall have quiet possession of the said lands.	3. And that it shall be lawful for the said grantee, his heirs, executors, administrators, successors and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess and enjoy the said lands and premises hereby conveyed, or intended so to be, with their and every of their appurtenances; and to have, receive and take the rents, issues and profits thereof, and of every part thereof to and for his and their use and benefit, without any let, suit, trouble, denial, eviction, interruption, claim or demand whatsoever of, from or by him the said grantor, or his heirs or successors, or any person claiming or to claim, by, from, under or in trust for him, them or any of them.
4. Free from all encumbrances.	4. And that free and clear and freely and absolutely acquitted, exonerated and for ever discharged or otherwise by the said grantor or his heirs or successors well and sufficiently saved, kept harmless and indemnified of, from and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and every other estate, title, charge, trouble and encumbrance whatsoever, made, executed, occasioned or suffered by the said grantor or his heirs or successors, or by any person claiming, or to claim, by, from, under or in trust for him, them or any of them.
5. And the said grantor covenants with the said grantee that he will execute such further assurances of the said lands as may be requisite.	5. And the said grantor doth hereby, for himself, his heirs, executors, administrators and successors, covenant, promise, and agree with and to the said grantee, his heirs, executors, administrators, successors and assigns, that he the said grantor, his heirs, executors, administrators and successors, and all and every other person whosoever having or claiming, or who shall or may hereafter have or claim, any estate, right, title or interest whatsoever in, to, or out of the said lands and premises hereby conveyed, or intended so to be, or any of them, or any part thereof, by, from, under or in trust for him, them, or any of them, shall and will, from time to time, and at all times hereafter, upon every reasonable request, and at the costs and charges of the said grantee, his heirs, executors, administrators, successors or assigns, make, do, execute or cause to be made, done or executed, all such further and other lawful acts, deeds, things, devices, conveyances and assurances in the law whatsoever, for the better, more perfectly, and absolutely conveying and assuring the said lands and premises hereby conveyed, or intended so to be, and every part thereof, with their appurtenances, unto the said grantee, his heirs, executors, administrators, successors and assigns, in manner aforesaid as by the said grantee, his heirs, executors, administrators, successors or assigns, his or their counsel in the law shall be reasonably devised, advised or required, so as no such further assurances contain or imply any further or other covenant or warranty than against the acts and deeds of the person who shall be required to make or execute the same, and his heirs, executors, administrators or successors only, and so as no person who shall be required to make or execute such assurances shall be compellable for the making or executing thereof, to go or travel from his usual place of abode.

COLUMN ONE	COLUMN TWO
6. And the said grantor covenants with the said grantee that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said grantee.	6. And the said grantor doth hereby, for himself, his heirs, executors, administrators and successors covenant, promise and agree with and to the said grantee, his heirs, executors, administrators, successors and assigns, that the said grantor and his heirs and successors shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request, costs and charges of the said grantee, his heirs, executors, administrators, successors or assigns, or his or their solicitor, agent or counsel, at any trial or hearing in any action or otherwise, as occasion shall require, produce all and every or any deed, instrument or writing hereunder written, for the manifestation, defence and support of the estate, title and possession of the said grantee, his heirs, executors, administrators, successors and assigns, in or to the said lands and premises hereby conveyed, or intended so to be, and at the like request, costs and charges, shall and will make and deliver, or cause to be made and delivered, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds, by the said grantee, his heirs, executors, administrators, successors or assigns, or such person as he or they shall for that purpose direct and appoint.
7. And the said grantor covenants with the said grantee that he has done no act to encumber the said lands.	7. And the said grantor, for himself, his heirs, executors, administrators and successors doth hereby covenant, promise and agree, with and to the said grantee, his heirs, executors, administrators, successors and assigns, that he hath not at any time heretofore made, done, committed, executed, or wilfully or knowingly suffered any act, deed, matter or thing whatsoever, whereby or by means whereof the said lands and premises hereby conveyed, or intended so to be, or any part or parcel thereof are, is or shall or may be in anywise impeached, charged, affected or encumbered in title, estate or otherwise howsoever.
8. And the said grantor releases to the said grantee all his claims upon the said lands.	8. And the said grantor hath released, remised and for ever quitted claim, and by these presents doth release, remise and for ever quit claim, unto the said grantee, his heirs, executors, administrators, successors and assigns, all, and all manner of right, title, interest, claim and demand whatsoever, in, to and out of the said lands and premises hereby granted, or intended so to be, and every part and parcel thereof, so as that neither he nor his heirs, executors, administrators, successors or assigns shall nor may, at any time hereafter, have claim, pretend to, challenge or demand the said lands and premises or any part thereof, in any manner howsoever, but the said grantee, his heirs, executors, administrators, successors and assigns, and the same lands and premises shall from henceforth forever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said grantor might or could have upon him in respect of the said lands, or upon the said lands.
9. And the said wife of the said grantor hereby bars	9. And the said wife of the said grantor for and in consideration of the sum of one dollar of lawful money of Canada, to her in hand paid by the said grantee at or before the sealing and delivery of these presents, the

COLUMN ONE	COLUMN TWO
her dower in the said lands.	receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said grantee, his heirs, executors, administrators, successors and assigns, all her dower and right and title which, in the event of her surviving her said husband, she might or would have to dower, in, to or out of the lands and premises hereby conveyed or intended so to be.

R.S.O. 1960, c. 372, Sched. B.

CHAPTER 436

The Short Forms of Leases Act

Effect of lease made according to Sched. A and Col. 1 of Sched. B

1. Where a lease under seal, made according to the form set forth in Schedule A, or any other such lease expressed to be made in pursuance of this Act or referring thereto, contains any of the forms of words contained in Column One of Schedule B and distinguished by any number therein, the lease has the same effect as if it contained the form of words contained in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the lease; but it is not necessary in any such lease to insert any such number. R.S.O. 1960, c. 373, s. 1.

Parties may substitute any name or designation

2.—(1) Parties who use any of the forms in the first column of Schedule B, may substitute for the word "lessee" or "lessor" any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding form in the second column.

and feminine for masculine or plural for singular

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

and may introduce exceptions

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

Application of covenants to heirs and assigns

(4) Where the premises demised are of freehold tenure the covenants 2 to 9 shall be taken to be made with and the proviso 12 to apply to the heirs and assigns of the lessor or the successors and assigns of the lessor, as the case may be, and where the premises demised are of leasehold tenure such covenants and proviso shall be taken to be made with and apply to the lessor, his executors, administrators, successors and assigns.

Interpretation

(5) Where the word "lessor" occurs in the second column it includes, when the premises demised are of freehold tenure, the heirs, executors, administrators, successors and assigns of the lessor, and when the premises demised are of leasehold tenure it includes the executors, administrators, successors and assigns of the lessor, and where the word "lessee" occurs in the second column it includes the executors, administrators, successors and assigns of the lessee. R.S.O. 1960, c. 373, s. 2.

Effect of leases failing to take effect under this Act

3. Any lease or part of a lease that fails to take effect by virtue of this Act is nevertheless as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1960, c. 373, s. 3.

Covenants to run with land

4. Unless the contrary is expressly stated in the lease all covenants not to assign or sub-let without leave entered into by a lessee in any lease under this Act run with the land demised, and bind the executors, administrators, successors and assigns of the lessee whether mentioned in the lease or not, unless it is by the terms of the lease otherwise expressly provided, and the proviso for re-entry contained in Schedule B, when inserted in a lease, applies to a breach of either an affirmative or negative covenant. R.S.O. 1960, c. 373, s. 4.

SCHEDULE A

FORM OF LEASE

This Indenture, made the .....day of....., one thousand nine hundred and....., in pursuance of *The Short Forms of Leases Act*, between....., of the first part, and....., of the second part, Witnesseth, that in consideration of the rents, covenants and agreements, hereinafter reserved and contained on the part of the lessee, the lessor doth demise and lease unto the lessee, his executors, administrators, successors and assigns all that (*here insert a description of the premises with sufficient certainty*).

To have and to hold the said demised premises for and during the term of....., to be computed from the .....day of ....., one thousand nine hundred and ....., and from thenceforth next ensuing and fully to be complete and ended.

Yielding and paying therefor yearly and every year during the said term unto the said lessor, his (*or* their) heirs, executors, administrators, successors or assigns, the sum of....., to be payable on the following days and times, that is to say (on, *etc.*), the first of such payments to become due and be made on the.....day of.....next, (*here insert covenants or any other provisions*). In witness whereof, etc.

R.S.O. 1960, c. 373, Sched. A.

SCHEDULE B

COLUMN ONE	COLUMN TWO
1. The said lessee covenants with the said lessor:	1. And the said lessee doth hereby covenant with the said lessor in the manner following, that is to say:
2. To pay rent.	2. That he, the said lessee, will, during the said term, pay unto the said lessor the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever.

COLUMN ONE	COLUMN TWO
3. And to pay taxes, except for local improvements.	3. And also will pay all taxes, rates, duties and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor on account thereof, except municipal taxes for local improvements or works assessed upon the property benefited thereby.
4. And to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.	4. And also will, during the said term, well and sufficiently repair, maintain, amend and keep the said demised premises with the appurtenances in good and substantial repair, and all fixtures and things thereto belonging, or which at any time during the said term shall be erected and made by the lessor, when, where, and so often as need shall be, reasonable wear and tear and damage by fire, lightning and tempest only excepted.
5. And to keep up fences.	5. And also will, from time to time, during the said term, keep up the fences and walls of or belonging to the said premises, and make anew any parts thereof that may require to be new-made in a good and husband-like manner and at proper seasons of the year.
6. And not to cut down timber.	6. And also will not at any time during the said term hew, fell, cut down or destroy, or cause or knowingly permit or suffer to be hewed, felled, cut down or destroyed, without the consent in writing of the lessor, any timber or timber trees.
7. And that the said lessor may enter and view state of repair; and that the said lessee will repair according to notice in writing, reasonable wear and tear and damage by fire, lightning and tempest only excepted.	7. And that it shall be lawful for the lessor and his agents, at all reasonable times during the said term, to enter the said demised premises to examine the condition thereof; and further, that all want of reparation that upon such view shall be found, and for the amendment of which notice in writing shall be left at the premises, the said lessee will, within three calendar months next after such notice, well and sufficiently repair and make good accordingly, reasonable wear and tear and damage by fire, lightning and tempest only excepted.
8. And will not assign or sub-let without leave.	8. And also that the lessee shall not, nor will during the said term, assign, transfer or set over or otherwise by any act or deed procure the said premises or any of them to be assigned, transferred, set over or sub-let unto any person or persons whomsoever without the consent in writing of the lessor first had and obtained.
9. And that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.	9. And further, that the lessee will, at the expiration, or other sooner determination of the said term, peaceably surrender and yield up unto the said lessor the said premises hereby demised with the appurtenances, together with all the buildings, erections and fixtures erected or made by the lessor thereon, in good and substantial repair and condition, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

COLUMN ONE	COLUMN TWO
10. Provided, that the lessee may remove his fixtures.	10. Provided, and it is hereby expressly agreed that the lessee may at or prior to the expiration of the term hereby granted, take, remove and carry away from the premises hereby demised all fixtures, fittings, plant, machinery, utensils, shelving, counters, safes or other articles upon the said premises in the nature of trade or tenants' fixtures or other articles belonging to or brought upon the said premises by the said lessee, but the lessee shall in such removal do no damage to the said premises, or shall make good any damage which he may occasion thereto.
11. Provided, that in the event of fire, lightning or tempest, rent shall cease until the premises are rebuilt.	11. Provided, and it is hereby expressly agreed, that in case the premises hereby demised or any part thereof shall, at any time during the said term, be burned down or damaged by fire, lightning or tempest so as to render the same unfit for the purposes of the said lessee, then and so often as the same shall happen, the rent hereby reserved, or a proportionate part thereof, according to the nature and extent of the injuries sustained shall abate, and all or any remedies for recovery of said rent or such proportionate part thereof shall be suspended until the said premises shall have been rebuilt or made fit for the purposes of the said lessee.
12. Proviso for re-entry by the said lessor on non-payment of rent or non-performance of covenants.	12. Provided, and it is hereby expressly agreed, that if and whenever the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid, although no formal demand shall have been made thereof, or in case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the lessee, then and in either of such cases it shall be lawful for the lessor at any time thereafter, into and upon the said demised premises or any part thereof, in the name of the whole to re-enter, and the same to have again, repossess and enjoy, as of his former estate; anything hereinafter contained to the contrary notwithstanding.
13. The said lessor covenants with the said lessee for quiet enjoyment.	13. And the lessor doth hereby covenant with the lessee, that he paying the rent hereby reserved and performing the covenants hereinbefore on his part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the lessor, or any other person or persons lawfully claiming by, from or under him.

R.S.O. 1960, c. 373, Sched. B.

CHAPTER 437

The Short Forms of Mortgages Act

1. In this Act, Interpretation

(*a*) "land" includes freehold or leasehold tenements and hereditaments, whether corporeal or incorporeal, and any undivided part or share therein;

(*b*) "party" and "parties" include a body politic or corporate as well as an individual. R.S.O. 1960, c. 374, s. 1; 1967, c. 94, s. 1.

2.—(1) Where a mortgage of land, made according to the form set forth in Schedule A, or any other mortgage of land expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in Column One of Schedule B, and distinguished by any number therein, the mortgage has the same effects as if it contained the form of words in Column Two of Schedule B distinguished by the same number as is annexed to the form of words used in the mortgage; but it is not necessary in any such mortgage to insert any such number. Effect of mortgage made according to Sched. A and Col. 1 of Sched. B

(2) Where a blank occurs in any of the forms in Column Two the form shall be read as if it were filled in with the words that supply the place of the blank in the corresponding form in Column One. R.S.O. 1960, c. 374, s. 2. Where blank occurs

3.—(1) Parties who use any of the forms in the first column of Schedule B may substitute for the word "mortgagor" or "mortgagee" any name or other designation, and in every such case a corresponding substitution shall be taken to be made in the corresponding forms in the second column. Parties may substitute names or designations

(2) Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column, and corresponding changes shall be taken to be made in the corresponding forms in the second column. and feminine for masculine gender or plural for singular

(3) Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column. R.S.O. 1960, c. 374, s. 3. and may introduce exceptions or qualifications

Mortgages not taking effect under this Act, how far valid

4. Any such mortgage, or part of such mortgage that fails to take effect by virtue of this Act is nevertheless as effectual to bind the parties thereto as if this Act had not been passed. R.S.O. 1960, c. 374, s. 4.

Times to be governed by

R.S.O. 1970, c. 31, s. 279

5. The period of time of default before which a mortgagee may serve notice of exercise of power of sale and the period of time after notice within which a sale may be provided for in the forms of words numbered 14 in Schedule B shall not be less than the respective times prescribed by section 31 of *The Mortgages Act*. 1964, c. 110, s. 1, *part*.

Transitional provision

R.S.O. 1970, c. 279

1964, c. 110

6. Where a mortgage made before the 1st day of January, 1965, contains a power of sale in accordance with *The Short Forms of Mortgages Act*, being chapter 374 of the Revised Statutes of Ontario, 1960, a sale made under such power of sale, so long as it complies with Part III of *The Mortgages Act*, is as effectual as if *The Short Forms of Mortgages Amendment Act, 1964* had not been passed. 1964, c. 110, s. 1, *part*.

SCHEDULE A

Form of Mortgage

This Indenture, made the.....day of....., one thousand nine hundred and....., in pursuance of *The Short Forms of Mortgages Act*, between (*here insert the names of parties and recitals, if any*). Witnesseth, that in consideration of..... .....of lawful money of Canada, now paid by the said mortgagee to the said mortgagor, the receipt whereof is hereby acknowledged, the said mortgagor doth grant and mortgage unto the said mortgagee, his heirs, executors, administrators and assigns for ever, all (*parcels*).

(*Here insert provisoes, covenants or other provisions*)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R.S.O. 1960, c. 374, Sched. A.

SCHEDULE B

COLUMN ONE	COLUMN TWO
1. And the said wife of the said mortgagor hereby bars her dower in the said lands.	1. And the said wife of the said mortgagor for and in consideration of the sum of one dollar of lawful money of Canada, to her in hand paid by the said mortgagee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said mortgagee, his heirs, executors, administrators, successors and assigns, all her dower, and right and title which, in the event of her surviving her said husband, she might or would have to dower, in, to, or out of the lands and premises hereby conveyed or intended so to be.
2. Provided this mortgage to be void on payment of of lawful money of Canada, with interest at per cent as follows: and taxes and performance of statute labour.	2. Provided always and there presents are upon this express condition that if the said mortgagor, his heirs, executors, administrators, successors or assigns, or any of them, do and shall well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators, successors or assigns the just and full sum or (*amount of principal money*) of lawful money of Canada with interest thereon at the rate of (*rate of interest*) per cent per annum on the day and time and in the manner following, that is to say (*terms of payment of principal and interest*), without any deduction or abatement, and do and shall also pay any taxes, rates, levies, charges or assessments upon the said lands or in respect thereof no matter by whom or by what authority imposed which the said mortgagee, his executors, administrators, successors or assigns shall have paid or shall have been rendered liable to pay, and do and shall also pay all such other sums as the said mortgagee, his executors, administrators, successors or assigns may be entitled to by virtue of these presents, then these presents and everything in the same shall be absolutely null and void; but nothing in this proviso or these presents shall make the mortgagor, his heirs, executors, administrators, successors or assigns liable to pay to the mortgagee, his executors, administrators, successors or assigns any tax, rate or charge imposed upon the mortgagee, his heirs, executors, administrators, successors or assigns in respect of the income derived by him or them in respect of the mortgage money or in respect of the devolution of the interest of the said mortgagee in the said lands or mortgage money.
3. The said mortgagor covenants with the said mortgagee:	3. And the said mortgagor doth hereby, for himself, his heirs, executors, administrators and successors covenant, promise and agree to and with the said mortgagee, his heirs, executors, administrators, successors and assigns, in manner following, that is to say:
4. That the mortgagor will pay the mortgage money and interest, and observe the above proviso.	4. That the said mortgagor, his heirs, executors, administrators and successors or some or one of them shall and will well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators, successors or assigns, the said sum of money in the above proviso mentioned, with interest for the same as aforesaid, at the days and times and in the manner above limited for payment thereof, and shall and will in everything well, faithfully and truly do, observe, perform, fulfil and keep all and singular the provisions, agreements and stipulations in the said above proviso

COLUMN ONE	COLUMN TWO
	particularly set forth, according to the true intent and meaning of these presents, and of the said above proviso.
5. That the mortgagor has a good title in fee simple to the said lands.	5. And also, that the said mortgagor, at the time of the sealing and delivery hereof, is, and stands solely, rightfully and lawfully seized of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the lands, tenements, hereditaments and all and singular other the premises hereinbefore described, with their and every of their appurtenances and of an and in every part and parcel thereof without any manner of trusts, reservations, limitations, provisoes or conditions, except those contained in the original grant thereof from the Crown or any other matter or thing to alter, charge, change, encumber or defeat the same.
6. And that he has the right to convey the said lands to the said mortgagee.	6. And also, that the said mortgagor now hath in himself good right, full power and lawful and absolute authority to convey the said lands, tenements, hereditaments, and all and singular other the premises hereby conveyed or hereinbefore mentioned or intended so to be, with their and every of their appurtenances unto the said mortgagee, his heirs, executors, administrators, successors and assigns, in manner aforesaid, and according to the true intent and meaning of these presents.
7. And that on default the mortgagee shall have quiet possession of the said lands.	7. And also, that from and after default shall happen to be made of or in the payment of the said sum of money, in the said above proviso mentioned, or the interest thereof, or any part thereof, or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents, and of the said proviso, then, and in every such case, it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators, successors and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the aforesaid lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with their appurtenances, without the let, suit, hindrance, interruption or denial of him the said mortgagor, his heirs, executors, administrators, successors or assigns or any other person or persons whomsoever.
8. Free from all encumbrances.	8. And that free and clear and freely and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever due or payable upon or in respect of the said lands, tenements, hereditaments and premises or any part thereof, and of and from all former conveyances, mortgages, rights, annuities, debts, executions and recognizances, and of and from all manner of other charges or encumbrances whatsoever.
9. And that the said mortgagor will execute such fur-	9. And also, that from and after default shall happen to be made of or in the payment of the said sum of money in the said proviso mentioned, or the interest thereof, or any part of such money or interest or of or in

COLUMN ONE	COLUMN TWO
ther assurances of the said lands as may be requisite.	the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents and of the said proviso, then and in every such case the said mortgagor, his heirs, executors, administrators, successors and assigns and all and every other person or persons whosoever having, or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with the appurtenances or any part thereof, by, from, under or in trust for him the said mortgagor, his heirs, executors, administrators, successors or assigns shall and will, from time to time, and at all times thereafter, at the proper costs and charges of the said mortgagee, his heirs, executors, administrators, successors and assigns, make, do, suffer and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances, and assurances in the law for the further, better and more perfectly and absolutely conveying and assuring the said lands, tenements, hereditaments and premises, with the appurtenances, unto the said mortgagee, his heirs, executors, administrators, successors and assigns, as by the said mortgagee, his heirs, executors, administrators, successors or assigns, or his or their counsel learned in the law shall or may be lawfully and reasonably devised, advised, or required, but so as no person who shall be required to make or execute such assurances shall be compelled, for the making or executing thereof, to go or travel from his usual place of abode.
10. And that the said mortgagor will produce the title deeds enumerated hereunder, and allow copies to be made at the expense of the mortgagee.	10. And also, that the said mortgagor, his heirs, executors, administrators, successors and assigns shall and will, unless prevented by fire or inevitable accident, from time to time, and at all times hereafter, at the request and proper costs and charges in the law of the said mortgagee, his heirs, executors, administrators, successors or assigns at any trial or hearing in any action or otherwise as occasion shall require, produce all, every or any deed, instrument or writing hereunder written for the manifestation, defence and support of the estate, title and possession of the said mortgagee, his heirs, executors, administrators, successors and assigns, of, in, to or out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, and at the like request, costs and charges shall and will make and deliver, or cause or procure to be made and delivered, unto the said mortgagee, his heirs, executors, administrators, successors and assigns true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds by the said mortgagee, his heirs, executors, administrators, successors and assigns.
11. And that the said mortgagor	11. And also that the said mortgagor hath not at any time heretofore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter

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has done no act to encumber the said lands.	or thing whatsoever whereby or by means whereof the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, or any part or parcel thereof, are, is or shall or may be in any wise impeached, charged, affected or encumbered in title, estate or otherwise howsoever.
12. And that the said mortgagor will insure the buildings on the said lands to the amount of not less than of lawful money of Canada.	12. And also that the said mortgagor or his heirs, executors, administrators, successors or assigns shall and will forthwith insure unless already insured, and during the continuance of this security keep insured against loss or damage by fire, in such proportions upon each building as may be required by the said mortgagee, his heirs, executors, administrators, successors or assigns, the messuages and buildings erected on the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, in the sum of.....of lawful money of Canada, at the least, in some insurance office to be approved of by the said mortgagee, his heirs, executors, administrators, successors or assigns, and pay all premiums and sums of money necessary for such purpose, as the same shall become due, and will on demand assign, transfer and deliver over unto the said mortgagee, his heirs, executors, administrators, successors or assigns, the policy of policies of insurance, receipt or receipts thereto appertaining; and if the said mortgatee, his heirs, executors, administrators, successors or assigns, shall pay any premiums or sums of money for insurance of the said premises or any part thereof, the amount of such payment shall be added to the debt hereby secured, and shall bear interest at the same rate from the time of such payments, and shall be payable at the time appointed for the then next ensuing payment of interest on the said debt.
13. And the said mortgagor doth release to the said mortgagee all his claims upon the said lands subject to the said proviso.	13. And the said mortgagor hath released, remised and for every quitted claim, and by these presents doth release, remise, and for ever quit claim unto the said mortgagee, his heirs, executors, administrators, successors and assigns, all and all manner of right, title, interest, claim and demand whatsoever, of, unto and out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, and every part and parcel thereof, so as that neither the said mortgagor, his heirs, executors, administrators, successors or assigns, shall or may at any time hereafter have, claim, pretend to, challenge or demand the said lands, tenements, hereditaments and premises or any part thereof, in any manner howsoever, subject always to the said above proviso; but the said mortgagee, his heirs, executors, administrators, successors or assigns, and the said lands, tenements, hereditaments and premises, subject as aforesaid, shall from henceforth forever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said mortgagor, his heirs, successors or assigns, might or could have upon the said mortgagee, his heirs, executors, administrators, successors or assigns, in respect of the said lands, tenements, hereditaments and premises, or upon the said lands, tenements, hereditaments and premises.

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14. Provided that the said mortgagee on default of payment for may on notice enter on and lease the said lands or on default of payment for may on notice sell the said lands.	14. Provided always, and it is hereby declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors, administrators, successors or assigns, shall make default in any payment of the said money or interest or any part of either of the same, according to the true intent and meaning of these presents, and of the proviso in that behalf hereinbefore contained, and ..... shall have thereafter elapsed without such payment being made (of which default, as also of the continuance of the said principal money and interest, or some part thereof, on this security, the production of these presents shall be conclusive evidence), it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators, successors or assigns, after giving written notice to the said mortgagor, his heirs, executors, administrators, successors or assigns, of his or their intention in that behalf, either personally or at his or their usual or last place of residence within this Province not less than ..... previous, without any further consent or concurrence of the said mortgagor, his heirs, executors, administrators, successors or assigns, to enter into possession of the said lands, tenements, hereditaments and premises hereby conveyed, or mentioned or intended so to be, and to receive and take the rents, issues and profits thereof, and whether in or out of possession of the same, to make any lease or leases thereof, or of any part thereof as he or they shall think fit, and also on default as aforsaid and ..... shall have thereafter elapsed and after giving written notice to the persons and in the manner and form prescribed by Part III of *The Mortgages Act*, not less than ..... previous without any further consent or concurrence of the said mortgagor, his heirs, executors, administrators, successors or assigns to sell and absolutely dispose of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, or any part or parts thereof, with the appurtenances, by public auction or private contract, or partly by public auction and partly by private contract, as to him or them shall seem meet, and to convey and assure the same when so sold unto the purchaser or purchasers thereof, his or their heirs, successors or assigns, or as he or they shall direct and appoint and to execute and do all such assurances, acts, matters and things as may be found necessary for the purposes aforesaid, and the said mortgagee, his heirs, executors, administrators, successors or assigns shall not be responsible for any loss which may arise by reason of any such leasing or sale as aforesaid unless the same shall happen by reason of his or their wilful neglect or default; and it is hereby further agreed between the parties to these presents, that, until such sale or sales shall be made as aforesaid, the said mortgagee, his heirs, executors, administrators, successors or assigns shall and will stand and be possessed of and interested in the rents and profits of the said lands, tenements, hereditaments and premises, in case he or they shall take possession of the same on any default as aforesaid, and after such sale or sales shall stand and be possessed of and interested in the moneys to arise and be produced by such sale or sales, or which shall be received by the mortgagee, his heirs, executors, administrators, successors or assigns, by reason of any insurance upon the said premises or any

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	part thereof, upon trust in the first place to pay and satisfy the costs and charges of preparing for and making sales, leases and conveyances as aforesaid, and all other costs and charges, damages and expenses which the said mortgagee, his heirs, executors, administrators, successors, or assigns, shall bear, sustain, or be put to for taxes, rents, insurances and repairs, and all other costs and charges which may be incurred in and about the execution of any of the trusts in him or them hereby reposed, and in the next place to pay and satisfy the principal sum of money and interest hereby secured or mentioned or intended so to be or so much thereof as shall remain due and unsatisfied up to and inclusive of the day whereon the said principal sum shall be paid and satisfied; and after full payment and satisfaction of all such sums of money and interest as aforesaid upon this further trust that the said mortgagee, his heirs, executors, administrators, successors or assigns, do and shall pay the surplus, if any, to the said mortgagor, his heirs, executors, administrators, successors or assigns, or as he or they shall direct and appoint, and shall also, in such event, at the request, costs and charges in the law of the said mortgagor, his heirs, executors, administrators, successors or assigns, convey and assure unto the said mortgagor, his heirs, executors, administrators, successors or assigns, or to such person or persons as he or they shall direct and appoint, all such parts of the said lands, tenements, hereditaments and premises as shall remain unsold for the purposes aforesaid, freed and absolutely discharged of and from all estate, lien, charge and encumbrance whatsoever by the said mortgagee, his heirs, executors, administrators, successors or assigns, in the meantime, but so as no person who shall be required to make or execute any such assurances, shall be compelled for the making thereof to go or travel from his usual place of abode: Provided always, and it is hereby further declared and agreed by and between the parties to these presents, that notwithstanding the power of sale and other the powers and provisions contained in these presents, the said mortgagee, his heirs, executors, administrators, successors or assigns, shall have and be entitled to his right of foreclosure of the equity of redemption of the said mortgagor, his heirs, executors, administrators, successors and assigns in the said lands, tenements, hereditaments and premises as fully and effectually as he or they might have exercised and enjoyed the same in case the power of sale, and the other former provisoes and trusts incident thereto had not been herein contained.
15. Provided that the mortgagee may distrain for arrears of interest.	15. And it is further covenanted, declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors, administrators, successors or assigns, shall make default in payment of any part of the said interest at any of the days or times hereinbefore limited for the payment thereof, it shall and may be lawful for the said mortgagee, his heirs, executors, administrators, successors or assigns, to distrain therefor upon the said lands, tenements, hereditaments and premises, or any part thereof, and by distress warrant, to recover by way of rent reserved, as in the case of a demise, of the said lands, tenements, hereditaments and premises, so much of such interest as shall, from time to time, be, or

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	remain in arrear and unpaid, together with all costs, charges and expenses attending such levy or distress, as in like cases of distress for rent.
16. Provided that in default of the payment of the interest hereby secured, the principal hereby secured shall become payable.	16. Provided always, and it is hereby further expressly declared and agreed by and between the parties to these presents, that if any default shall at any time happen to be made of or in the payment of the interest money hereby secured or mentioned or intended so to be, or any part thereof, then and in such case the principal money hereby secured or mentioned, or intended so to be, and every part thereof, shall forthwith become due and payable in like manner and with the like consequences and effects to all intents and purposes whatsoever, as if the time herein mentioned for payment of such principal money had fully come and expired, but that in such case the said mortgagor, his heirs, executors, administrators, successors or assigns, shall on payment of all arrears under these presents, with lawful costs and charges in that behalf, at any time before any judgment in the premises recovered or within such time as, by the practice of the Supreme Court, relief therein could be obtained be relieved from the consequences of non-payment of so much of the money secured by these presents, or mentioned, or intended so to be, as may not then have become payable by reason of lapse of time.
17. Provided that until default of payment the mortgagor shall have quiet possession of the said lands.	17. And provided also, and it is hereby further expressly declared and agreed by and between the parties to these presents, that until default shall happen to be made of or in the payment of the said sum of money hereby secured or mentioned, or intended so to be, or the interest thereof, or any part of either of the same, or the doing, observing, performing, fulfilling or keeping some one or more of the provisions, agreements or stipulations herein set forth, contrary to the true intent and meaning of these presents, it shall and may be lawful to and for the said mortgagor, his heirs, executors, administrators, successors and assigns, peaceably and quietly to have, hold, use, occupy, possess and enjoy the said lands, tenements, hereditaments, and premises hereby conveyed or mentioned, or intended so to be, with their and every of their appurtenances, and receive and take the rents, issues and profits thereof to his and their own use and benefit, without let, suit, hindrance, interruption, or denial of or by the said mortgagee, his heirs, executors, administrators, successors or assigns, or of or by any other person or persons whomsoever lawfully claiming, or who shall, or may lawfully claim by, from, under or in trust for him, her, them or any or either of them.

R.S.O. 1960, c. 374, Sched. B; 1964, c. 110, s. 2.

CHAPTER 438

The Silicosis Act

Interpretation

1. In this Act,

(*a*) "Minister" means the member of the Executive Council to whom the administration of this Act may be assigned by the Lieutenant Governor in Council;

(*b*) "regulations" means the regulations made under this Act. R.S.O. 1960, c. 375, s. 1.

Health certificate

2. Subject to section 5 and the regulations, no person shall be employed in an industrial process involving a silica exposure as defined by the regulations unless he is the holder of a health certificate issued under the regulations. R.S.O. 1960, c. 375, s. 2.

Medical examination

3. The Minister may require any employee engaged in any occupation involving a silica exposure as defined by the regulations to take a medical examination at any time. R.S.O. 1960, c. 375, s. 3.

Fee for medical examination

4. The fee prescribed by the regulations for the medical examination shall be paid by the employer in the manner prescribed by the regulations. R.S.O. 1960, c. 375, s. 4.

Exemption of any industrial process

5. Where in the opinion of the Minister the circumstances warrant such action, he may exempt in whole or in part from the provisions of this Act and the regulations any industrial process involving a silica exposure. R.S.O. 1960, c. 375, s. 5.

Offence

6. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than $10 and not more than $100. R.S.O. 1960, c. 375, s. 6.

Regulations

7.—(1) The Minister, with the approval of the Lieutenant Governor in Council, may make regulations,

(*a*) defining silica exposure and prescribing medical examinations of employees engaged in industrial processes involving silica exposure and prescribing the fees to be paid for and the form of reports to be made in connection with such examination; and

(*b*) providing for the issue, renewal, suspension and cancellation of health certificates to employees engaged in

industrial processes involving a silica exposure and prescribing the form thereof and the conditions of issuing and the custody and use of such certificates.

Application of regulations

(2) The regulations may be general in their application or may be made applicable specially to any particular locality or industry. R.S.O. 1960, c. 375, s. 7.

CHAPTER 439

The Small Claims Courts Act

Interpretation

1.—(1) In this Act,

(*a*) "action" includes a proceeding, suit, matter and cause;

(*b*) "county" includes a provisional county and a provisional judicial district;

(*c*) "county court" includes a district court;

(*d*) "debt or money demand summons" means a summons instituting an action for the recovery of a debt or money demand;

(*e*) "defendant" includes a primary debtor;

(*f*) "division" means the territory in and for which a small claims court is prescribed;

(*g*) "Inspector" means the Inspector of Legal Offices;

(*h*) "judge" means,

(i) a small claims court judge appointed under this Act, or

(ii) the judge or a junior judge of a county court;

(*i*) "judgment creditor" includes a creditor who has obtained judgment against a garnishee;

(*j*) "judgment debtor" includes a garnishee against whom judgment has been recovered;

(*k*) "plaintiff" includes a primary creditor;

(*l*) "prescribed form" means the form prescribed in the rules;

(*m*) "rules" means the rules and regulations made under this Act. R.S.O. 1960, c. 110, s. 1 (1); 1961-62, c. 35, s. 1, *amended*.

Exclusive powers of county judge

(2) Where in this Act any power or authority is conferred or any duty is imposed upon the judge of a county court, it shall be exercised or performed by him and not by a junior judge. R.S.O. 1960, c. 110, s. 1 (2).

Territorial application of Part I;

2.—(1) Part I, except where otherwise therein provided, applies to every county and provisional judicial district.

Part II

(2) Part II applies only to provisional judicial districts. R.S.O. 1960, c. 110, s. 2.

PART I

APPLICABLE TO COUNTIES AND DISTRICTS

COURTS

Small claims courts

3. Subject to this Act and the rules, the small claims courts existing at the time this Act takes effect are continued. 1970, c. 120, s. 2, *part*, *amended*.

Name

4. The court in each division shall be called "The First (*or as the case may be*) Small Claims Court of the County of.....". 1970, c. 120, s. 2, *part*.

Each court to have a seal

5. Every small claims court shall have a seal, with which all process shall be sealed or stamped, and that shall be paid for out of the Consolidated Revenue Fund. R.S.O. 1960, c. 110, s. 5.

To be courts of record

6. Every small claims court is a court of record. R.S.O. 1960, c. 110, s. 6.

Courts in cities

7. In a city in which two small claims courts are prescribed, all or any of the sittings of both such courts may be held in either of such divisions, and the clerks of both courts may, with the approval of the Lieutenant Governor in Council, keep their offices in the same division. R.S.O. 1960, c. 110, s. 7.

Use of court house

8. The sittings of a small claims court in a county town may be held in the court house. R.S.O. 1960, c. 110, s. 9.

Change in number or limits of court

9. Actions and judgments in a small claims court, the number or limits of which are changed, continue to be actions and judgments therein, but the judge may transfer any such action or judgment to any other small claims court, and, when so transferred, it is an action or judgment of such other court. R.S.O. 1960, c. 110, s. 10.

Clerks of the peace to record time and place for holding courts

10. The clerk of the peace shall record in a book to be kept by him the divisions as prescribed from time to time, and the times and places of holding the small claims courts, and the alterations made therein, and he shall transmit to the Inspector a copy of the record. R.S.O. 1960, c. 110, s. 11.

JUDGES

Appointment of judges

11. The Lieutenant Governor in Council may appoint small claims court judges.

Who to preside

12. Every small claims court shall be presided over by a judge. R.S.O. 1960, c. 110, s. 12.

13.—(1) The judge may appoint a barrister to act as his deputy, and the barrister so appointed has all the powers and privileges vested in and is subject to all the duties imposed by law upon the judge. R.S.O. 1960, c. 110, s. 13 (1). In case of illness or absence of judge

(2) The judge shall forthwith send to the Inspector notice of the appointment, specifying the name and residence of the barrister so appointed and the reason for his appointment. R.S.O. 1960, c. 110, s. 13 (2); 1968, c. 31, s. 2. Inspector to be notified

(3) No such appointment shall be continued for more than two months, and, in case the Lieutenant Governor in Council disapproves of the appointment, he may annul it. R.S.O. 1960, c. 110, s. 13 (3). Duration

14. If the judge does not open court on the day appointed for that purpose, the clerk shall, after 4 o'clock in the afternoon, adjourn the court to an hour on the following day, to be named by him, and so from day to day, adjourning over any Sunday or holiday, until the judge arrives to open court, or until other directions are received from him. R.S.O. 1960, c. 110, s. 14. Adjournment of court if judge does not arrive

15.—(1) It is the duty of the judge to see that the officers of his courts perform their duties and to examine into complaints against them. Judge to supervise

(2) The judge may suspend a clerk or bailiff for any cause and, in the case of suspension, shall forthwith report it and the reason therefor to the Inspector, and, if a vacancy occurs in the office of clerk or bailiff, the judge shall forthwith notify the Inspector. R.S.O. 1960, c. 110, s. 15. Suspensions

16. An action by or against a judge may be brought in any small claims court of a county adjoining that in which he resides. R.S.O. 1960, c. 110, s. 16. Action by or against judge

17. The judge may at any time, and on such terms as to costs and otherwise as to him seem just, amend any defect or error in any proceeding, and all such amendments may be made as are necessary for the advancement of justice, determining the real question raised by or depending on the proceedings and best calculated to secure the giving of judgment according to the very right and justice of the case. R.S.O. 1960, c. 110, s. 17. Power to amend proceedings

CLERKS AND BAILIFFS

18. There shall be a clerk and one or more bailiffs for every small claims court, who shall be appointed by the Lieutenant Governor and hold office during pleasure. R.S.O. 1960, c. 110, s. 18. Every court to have clerk and bailiff

Holiday defined R.S.O. 1970, c. 225

19.—(1) In this section, "holiday" means,

(*a*) a holiday as defined in *The Interpretation Act*;

(*b*) Saturday;

(*c*) the day proclaimed as Civic Holiday in the municipality in which the small claims court office is located;

(*d*) the 26th day of December in a year in which Christmas Day falls on a day other than Saturday, or the 27th day of December in a year in which Christmas Day falls on a Saturday.

Office hours

(2) Except on holidays when they shall be closed, every small claims court office shall be kept open from 9.30 o'clock in the forenoon until 4.30 o'clock in the afternoon. 1970, c. 120, s. 5.

Clerk to issue summonses, etc.

20.—(1) The clerk shall issue all summonses and shall make copies thereof with the notices thereon, according to the prescribed form, and, except as otherwise provided by this Act, shall deliver the same to the bailiff for service.

Clerk to keep a record of process

(2) The clerk shall cause a note of all summonses, notices, orders, judgments, warrants, executions and returns thereto to be entered in a book to be kept in his office, and shall sign his name on every page of the book, and the signed entries, or a copy thereof certified as a true copy by the clerk, are sufficient evidence of such entries and of the proceedings referred to therein without further proof. R.S.O. 1960, c. 110, s. 20.

Books to be kept by clerks

21. A procedure book and a foreign procedure book shall be kept by the clerk. R.S.O. 1960, c. 110, s. 21 (1).

Forwarding summonses for service in other divisions

22. The clerk, when required, shall forward the summons and copies for service to the clerk of any other court who shall receive and deliver them to the bailiff for service, and when returned shall send the summons to the clerk from whom it was received, and shall enter the proceedings in the foreign procedure book. R.S.O. 1960, c. 110, s. 22.

Clerk to prepare affidavits of service, etc.

23. The clerk shall prepare an affidavit of service of every summons issued out of his court, or sent to him for service, stating how it was served, the day of service and the distance the bailiff necessarily travelled to effect service, and the affidavit shall be annexed to or endorsed on the summons and shall be sworn to by the bailiff, but the judge may require the bailiff to be sworn in his presence and to answer such questions as are put to him touching any service or mileage. R.S.O. 1960, c. 110, s. 23.

Clerks to issue executions, tax costs and keep account of fines, etc.

24. The clerk shall issue all warrants and executions, and shall tax costs, subject to revision by the judge, and shall keep an account of all fines payable or paid into court, and of all suitors' money paid into and out of court, and shall enter an account of all such fines and money in a book to be kept by him for that purpose, which shall be open to all persons desirous of searching it, and it shall at all times be accessible to the judge and the Inspector. R.S.O. 1960, c. 110, s. 24.

Fines and penalties to be paid to clerk of peace

25. The money arising from any penalty, forfeiture or fine imposed by or under this Act, not directed to be otherwise applied, shall be paid to the clerk and shall be paid by him to the clerk of the peace, to be paid over to the Treasurer of Ontario. R.S.O. 1960, c. 110, s. 25.

Clerks to deliver to clerk of peace a verified account of fines,

26. The clerk shall, at least once in every three months or oftener if required by the clerk of the peace, deliver to him a full account in writing verified by affidavit of all fines levied, accounting for and deducting the reasonable expenses of levying them and any allowance that the judge may make out of such fines in pursuance of the power hereinafter given. R.S.O. 1960, c. 110, s. 26.

and furnish judge with a verified account of moneys paid in and out of court

27. The clerk, when required by the judge, shall furnish him with a full account in writing, verified by affidavit, of the money paid into or out of the court under orders, judgments or process of the court, and of the balance in court belonging to suitors or others. R.S.O. 1960, c. 110, s. 27.

Clerk to remit moneys

28. The clerk shall promptly remit all moneys received by him in payment of a judgment to the person entitled thereto and shall in no case retain any such moneys for a period of more than three months. R.S.O. 1960, c. 110, s. 28.

Clerk annually to make list of suitors' money in court for six years

29.—(1) The clerk shall annually, in the month of January, make out a correct statement of all sums of money belonging to suitors or others that have been paid into court and have remained unclaimed for six years before the last day of the month of December then last past, specifying the names of the persons for whom or on whose account such sums were so paid.

Posting and distributing list

(2) The clerk shall keep one copy of the statement posted up in his office and another copy in some conspicuous part of the court house or the place where the court is held, and copies shall also be sent to the Treasurer of Ontario and the Inspector.

Disposition of unclaimed moneys

(3) All such sums shall form part of the Consolidated Revenue Fund and shall be forthwith paid over by the clerk or officer holding them to the Treasurer of Ontario, and, except by leave of

the Lieutenant Governor in Council, no person is entitled to claim any such sum that has remained unclaimed for six years.

Claims of persons under disability

(4) The time during which the person entitled to claim any such sum was an infant, or of unsound mind, or out of Ontario, shall not be taken into account in computing the six years. R.S.O. 1960, c. 110, s. 29.

Bailiffs to serve process

30. The bailiff shall promptly serve and execute all summonses, orders, warrants and executions delivered to him by the clerk, and shall so soon as served or executed return them to the clerk, but, subject to section 64, he shall not be required to travel beyond the limits of his division, or be allowed to charge mileage for any distance beyond the limits of the county in which is situated the division for the court of which he is bailiff. R.S.O. 1960, c. 110, s. 30.

Fees for sittings

31.—(1) Where the gross fees earned by a clerk or bailiff are less than $1,000 a year, there shall be paid to the clerk and bailiff, respectively, the sum of $4 for attending each sitting of the court. 1968, c. 31, s. 4; 1970, c. 120, s. 6, *amended*.

Additional allowance for clerks

(2) Where the gross fees earned by a clerk in a year are less than $13,333.33, there shall be paid to the clerk an additional allowance amounting to 10 per cent of such gross fees less 40 per cent of such gross fees that are in excess of $10,000. 1970, c. 120, s. 7 (1), *part*.

Additional allowance for bailiffs

(3) Where the gross fees earned by a bailiff in a year are less than $20,000, there shall be paid to the bailiff an additional allowance of 10 per cent of such gross fees, less 20 per cent of such gross fees that are in excess of $10,000. 1970, c. 120, s. 7 (1), *part*.

By whom fees to be paid in first instance

32.—(1) The fees upon every proceeding shall be paid in the first instance, and before it is taken, by the party on whose behalf it is taken.

How enforced

(2) If the fees are not so paid, payment may, by summary order of the judge, be enforced by execution in like manner as a judgment of the court. R.S.O. 1960, c. 110, s. 32.

Bailiff's fees to be paid to clerk when execution issues

33. At the time of the issue of any process or execution the bailiff's fees thereon shall be paid to the clerk and shall be paid over to the bailiff upon the return of the execution and not before, but, if the bailiff does not become entitled to any part or becomes entitled to a part only of such fees, the whole or the surplus, as the case may be, shall be repaid by the clerk to the person from whom the fees were received. R.S.O. 1960, c. 110, s. 33.

Bailiff to forfeit fees if he neglects to return process

34. If the bailiff neglects to return any process or execution within the time required by law, he shall for such neglect forfeit his fees thereon, and all fees so forfeited shall be held to have been received by the clerk who shall keep a special account thereof and account for and pay over the fees to the clerk of the peace, to be paid to the Treasurer of Ontario, to form part of the Consolidated Revenue Fund. R.S.O. 1960, c. 110, s. 34.

Clerk or bailiff not to accept extra fees

35. A clerk or bailiff shall not, directly or indirectly, take or receive any commission, charge, fee or reward for or in connection with the collection of any debt or claim that has been or may or can be sued in the court for which he is clerk or bailiff, except such fees as are provided by a tariff of fees under this Act. R.S.O. 1960, c. 110, s. 35.

Books, etc., to be produced for inspection

36. Every clerk and bailiff shall, as often as required by the Inspector, produce at the clerk's office, for examination and inspection, all books and documents required to be kept by him, and shall report to the Inspector concerning such matters as the Inspector may require. R.S.O. 1960, c. 110, s. 36.

Clerks' and bailiffs' returns to Inspector

37. Every clerk and bailiff shall, on or before the 31st day of January in every year, make a return under oath to the Inspector showing the aggregate amount of fees, charges and emoluments that he became entitled to receive during the year that ended on the 31st day of December next preceding. 1965, c. 32, s. 1.

Clerk to make returns to Lieutenant Governor

38. Every clerk, on or before the 31st day of January in each year, shall make a return, in such form and manner as the Lieutenant Governor in Council may prescribe, of the business of his office for the year that ended on the 31st day of December next preceding. R.S.O. 1960, c. 110, s. 38.

Annual return of commitment of judgment debtors

39. Every clerk, on or before the 31st day of January in each year, shall make to the Inspector a return showing the number of judgment debtors who, during the twelve months ending the 31st day of December next preceding, were ordered to be committed under each of the heads mentioned in section 133. R.S.O. 1960, c. 110, s. 39.

Security by clerks and bailiffs

R.S.O. 1970, c. 382

40.—(1) Every clerk and bailiff shall furnish such security as is required by the Lieutenant Governor in Council for the due performance of the duties of his office, and, subject to the rules, the provisions of *The Public Officers Act* relating to the giving of security apply to such security.

Security to enure to benefit of person injured

(2) The security shall enure to the benefit of any person suffering damage by the default, breach of duty or misconduct of the clerk or bailiff. R.S.O. 1960, c. 110, s. 40.

Entries of clerk or bailiff evidence against surety

41.—(1) In an action against a surety of a clerk or bailiff, the entries in the books kept by such clerk or bailiff are *prima facie* evidence against the surety.

Interpretation of "clerk or bailiff"

(2) For the purpose of this section, "clerk or bailiff" includes a person who has ceased to be a clerk or a bailiff, as the case may be. R.S.O. 1960, c. 110, s. 41.

Clerk not to practise as barrister, etc.

42. A clerk shall not practise as a barrister or solicitor. R.S.O. 1960, c. 110, s. 42.

Actions by and against clerks and bailiffs

43.—(1) A clerk or bailiff shall not sue or be sued in the court of which he is clerk or bailiff.

Idem

(2) A clerk or bailiff shall sue or be sued separately or jointly with another person in the court of any next adjoining division whether in the same or another county.

Commenced before appointment

(3) Nothing in this section prevents proceedings from being continued in the court in which the action was brought, if they were commenced before the appointment of such clerk or bailiff. R.S.O. 1960, c. 110, s. 43.

Bailiff and other officers not to purchase goods seized

44. A clerk, bailiff or other officer of the court shall not, directly or indirectly, purchase any property at a sale made by a bailiff under legal process, and every such purchase is void. R.S.O. 1960, c. 110, s. 44.

Extortion

45. If a clerk, bailiff or other officer of a small claims court is guilty of extortion, he is, upon proof thereof before the court, forever disqualified from holding any office of profit or emolument in a small claims court, and is also liable in damages to the party aggrieved. R.S.O. 1960, c. 110, s. 45.

Misconduct of court officers

46.—(1) Upon a complaint in writing that a bailiff or officer, acting under colour or pretence of process of his court, is guilty of extortion or misconduct, or does not duly pay or account for all money levied or received by him by virtue of his office, the judge may, at a sittings of the court, inquire into the matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary persons, and make such order thereupon for the repayment of any money extorted, or for the due payment of any money levied or received, and for the payment of such damages and costs to the person aggrieved, as he thinks just. R.S.O. 1960, c. 110, s. 46 (1).

Enforcing order for payment by bailiff

(2) In default of payment of the money ordered to be paid by the bailiff or officer within the time mentioned in the order for the payment thereof, the judge may, by warrant under his hand and seal, cause such sum to be levied by distress and sale of the goods

of the offender, together with the reasonable charges of the distress and sale, and in default of such distress or summarily in the first instance, or where payment is not made forthwith, if so ordered, may commit the offender to a correctional institution in the county for a period not exceeding three months, unless the money and costs are sooner paid. R.S.O. 1960, c. 110, s. 46 (2), *amended*.

Bailiff neglecting duty in relation to execution

47. If a bailiff, by neglect, connivance or omission, loses the opportunity of levying an execution or taking property under an attachment, or unduly delays to levy or attach, the judge, upon complaint of the party aggrieved, and upon proof of the fact alleged, may order the bailiff to pay such damages as the party aggrieved appears to have sustained, not exceeding the sum for which the execution or attachment issued, and upon demand being made therefor, and on his refusal to satisfy the damages, payment may be enforced by such means as are provided for enforcing judgments. R.S.O. 1960, c. 110, s. 47.

Resignation, removal or death of clerk

48. All accounts, moneys, books, papers, documents and other things in the possession of a clerk or bailiff, by virtue of or appertaining to his office, shall, upon his death, resignation or removal, immediately become the property of the clerk of the peace, who shall hold them until the appointment of another clerk or bailiff to whom he shall deliver them when security has been furnished on behalf of such clerk or bailiff. R.S.O. 1960, c. 110, s. 48.

Leave of absence

49. Leave of absence for a period not exceeding two months may be granted by the Inspector to a clerk or bailiff. R.S.O. 1960, c. 110, s. 49.

Clerk of peace to act as clerk when office of clerk is vacant

50. Subject to section 51, upon the death, resignation, suspension or removal of the clerk, the clerk of the peace shall be the clerk until a successor is appointed or the suspension is removed, and the clerk of the peace shall be paid by the county for his services in taking over the office the sum of $5 together with actual disbursements. R.S.O. 1960, c. 110, s. 50.

Deputy during absence of clerk or bailiff

51.—(1) With the approval of the Inspector, when prevented from acting because of absence or illness or any cause other than suspension, the clerk or bailiff may appoint a deputy to act for him, and the clerk or bailiff, as the case may be, is jointly and severally responsible for all the acts and omissions of the deputy so appointed.

Appointment of clerk, bailiff *pro tempore*

(2) With the approval of the Inspector, where there is no clerk or bailiff or the clerk or bailiff is under suspension, the judge may appoint a clerk or bailiff, as the case may be, *pro tempore*.

Powers, privileges, duties

(3) Where an appointment is made under subsection 1 or 2, the person so appointed has, during the period of his appointment, all the powers and privileges and is subject to the duties of the clerk or bailiff, as the case may be.

Clerk acting as bailiff

(4) Where there is no bailiff or the bailiff is for any reason unable to act, the clerk may act in his place. R.S.O. 1960, c. 110, s. 51.

Continuation of proceedings

52.—(1) In the event of the death, resignation, suspension or removal of a bailiff, after action taken by him under an execution or attachment, the proceedings may be continued by his successor.

Securities given to the bailiff

(2) The benefit of all securities given to the bailiff enures to his successor in office. R.S.O. 1960, c. 110, s. 52.

JURISDICTION AS TO CAUSES OF ACTION AND QUANTUM

Cases in which court has no jurisdiction

53. A small claims court does not have jurisdiction in,

(*a*) an action for the recovery of land, or an action in which the right or title to a corporeal or incorporeal hereditament, or any toll, custom, or franchise, comes in question;

(*b*) an action in which the validity of a devise, bequest or limitation under a will or settlement is disputed;

(*c*) an action for malicious prosecution, libel, slander, criminal conversation, seduction or breach of promise of marriage;

(*d*) an action against a justice of the peace for anything done by him in the execution of his office, if he objects thereto;

(*e*) an action upon a judgment or order of the Supreme Court or a county court where execution may issue upon or in respect thereof. R.S.O. 1960, c. 110, s. 53.

Cases in which court has jurisdiction

54. Except as otherwise provided in this Act, a small claims court has jurisdiction in,

(*a*) any action where the amount claimed does not exceed $400 exclusive of interest;

(*b*) any action of replevin where the value of property distrained, taken or detained does not exceed $400; and

(*c*) any action or matter authorized by or under any Act to be heard in the small claims court. 1965, c. 32, s. 2 (1).

55. The judge shall hear and determine in a summary way all questions of law and fact and may make such order or judgment as appears to him just and agreeable to equity and good conscience, which shall be final and conclusive between the parties, except as herein otherwise provided. R.S.O. 1960, c. 110, s. 55; 1968-69, c. 30, s. 1. Summary hearings

56. Upon a contract for the payment of a sum certain in labour or in any kind of goods or commodities or in any other manner than in money, the judge may give judgment for the amount in money as if the contract had been so expressed, if the goods and commodities have not been delivered or the labour or other thing performed in accordance with the contract. R.S.O. 1960, c. 110, s. 56. Judge may order payment in money, although contract not for payment in money

57.—(1) A small claims court in actions otherwise within its jurisdiction has power to grant relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to relieve against penalties and forfeitures, in as full and ample a manner as might be done in the like case by the Supreme Court. Powers of court

(2) Nothing in this section confers jurisdiction to grant an injunction. R.S.O. 1960, c. 110, s. 57. No injunctions

58. A minor may sue for any sum not exceeding $100 due to him for wages, or for work or services, as if he were of full age. R.S.O. 1960, c. 110, s. 58. Minors may sue for wages

59. A cause of action shall not be divided into two or more actions for the purpose of bringing it within the jurisdiction of a small claims court. R.S.O. 1960, c. 110, s. 59. Causes of action not to be divided

60. A judgment in an action brought for the balance of an account, or for a part of a claim, where the residue is abandoned to bring the claim within the jurisdiction of a small claims court, is a full discharge of all demands in respect of the account for the balance of which such action was brought or for the whole claim, as the case may be. R.S.O. 1960, c. 110, s. 60. Judgment to be full discharge

61.—(1) Where it appears at any stage of an action otherwise of the proper competence of a small claims court that the court has not cognizance thereof on account of the title to land or a corporeal or incorporeal hereditament, or a toll, custom or franchise being in question, or the validity of a devise, bequest or limitation under a will or settlement being disputed, or the amount involved being in excess of the jurisdiction of the court, the action shall not on that account be dismissed, but a judge of the Supreme Court, or the judge of the court in which the action is Transfer of actions to Supreme Court

pending, may order the action to be transferred to the Supreme Court or to a county court where the county court would have jurisdiction, upon such terms as to the payment of costs or otherwise as he thinks fit, and thereafter the action shall proceed in the Supreme Court or the county court as if originally commenced therein and as if the defendant had entered an appearance, but the judge may give such directions as to procedure as he considers proper.

Appeal from order

(2) Where the order is made by a judge of a small claims court, an appeal lies therefrom to a judge of the Supreme Court in chambers who may rescind the order or vary the terms thereof. R.S.O. 1960, c. 110, s. 61.

Action may be removed into Supreme Court

62. If it appears to a judge of the Supreme Court that an action is a fit one to be tried in the Supreme Court, he may order that it be transferred to the Supreme Court upon such terms as to payment of costs or otherwise as he thinks fit. R.S.O. 1960, c. 110, s. 62.

Counterclaim involving matters beyond jurisdiction

63.—(1) Where a counterclaim is disputed and involves matters beyond the jurisdiction of the small claims court, the judge may try the claim and may, if he sees fit, stay the issue of execution upon the judgment until the counterclaim has been disposed of, upon such terms as to security and otherwise as he sees fit to impose.

Set-off of counterclaim when admitted

(2) If the counterclaim or any part thereof is admitted, the judge may direct the amount admitted to be set off *pro tanto* without prejudice to any proceedings to recover the balance. R.S.O. 1960, c. 110, s. 63.

TERRITORIAL JURISDICTION AND PLACE OF TRIAL

In what court actions to be entered and tried

64.—(1) An action in a small claims court shall be entered and tried,

(*a*) in the court for the division in which the cause of action arose; or

(*b*) in the court for the division in which the defendant or any one of several defendants resides or carries on business; or

(*c*) in the court whose place of sitting is nearest to the residence of the defendant or any one of several defendants.

Woodsman's wages

(2) In addition to the courts mentioned in subsection 1, an action of a woodsman for wages may be entered and tried in the court for the division in which his contract for hire was made,

regardless of any stipulation in the contract or elsewhere to the contrary, and, in this subsection, "woodsman" means a person performing labour or services in connection with logs or timber, and includes a cook, blacksmith and every type of artisan usually employed in connection with logging or timbering operations.

Service of process in certain cases

(3) In any case under clause *c* of subsection 1 or subsection 2, a summons may be served by a bailiff of the court out of which it issues, and upon judgment being recovered execution against the goods and chattels of the debtor and all other process and proceedings to enforce payment of the judgment may be issued to the bailiff of such court and be executed and enforced by him in the county in which the debtor resides as well as in the county in which the judgment was recovered. R.S.O. 1960, c. 110, s. 64.

When actions may be brought in other than the regular divisions

65. If a person desires to bring an action in the court of a division other than as in section 64 mentioned, the judge may by order authorize an action to be entered and tried in the court of any division in his county adjacent to the division in which the defendant or one of the defendants resides, whether such defendant resides in the county of the judge granting the order or in an adjoining county. R.S.O. 1960, c. 110, s. 65.

Effect of agreement as to place of trial

66. No proviso, condition, stipulation, agreement or statement that provides for the place of trial of an action, matter or proceeding is of any force or effect where the defendant, within the time limited for disputing the plaintiff's claim or within such further time as the judge allows, files with the clerk of the court in which the action was commenced a notice disputing the jurisdiction of the court and an affidavit of the defendant or his agent stating that in his belief there is a good defence to the action on the merits, the division wherein the cause of action arose, or partly arose, and the division where the defendant resides. R.S.O. 1960, c. 110, s. 66.

Actions when defendant resides out of Ontario

67.—(1) Where a claim is within the proper competence of a small claims court, the action may be brought notwithstanding that the residence of the defendant is, at the time of bringing the action, out of Ontario, and the action may be brought in the court of the division in which the cause of action arose or partly arose, but the court may refuse to allow the action to proceed if it appears that the action is one that ought to be tried elsewhere.

Service of summons on non-residents

(2) The service of the summons may be made by a bailiff of the court out of which it issued or by any person who is, either before or after the service, approved by the judge or by the clerk, but the summons shall be served at least fifteen days before the return day thereof.

Allowance for service out of Ontario

(3) Where service of the summons has been effected out of Ontario, the judge may allow, as costs in the action, a sum towards the expenses incurred in effecting service, not exceeding in the whole $5. R.S.O. 1960, c. 110, s. 67.

Where defendant a corporation with head office out of Ontario

68. Where the defendant is a corporation not having its head office in Ontario and the cause of action arose partly in one division and partly in another, the plaintiff may bring his action in either division. R.S.O. 1960, c. 110, s. 68.

Place of trial where amount sued for exceeds $100

69.—(1) Where the debt or money payable exceeds $100 and is made payable by the contract of the parties at a place named therein, the action may be brought thereon in the court of the division in which the place of payment is situate, subject to the action being transferred to the court of any division in which but for this section it might have been brought.

Changing place of trial in such cases

(2) The judge of the small claims court in which the action is brought may, upon application of the defendant made within the time limited for disputing the plaintiff's claim, make an order transferring the action accordingly.

Affidavit in support of application

(3) The application shall be supported by an affidavit of the applicant or his agent stating that the applicant intends to defend the action, that there is a good defence upon the merits, that the cause of action did not wholly arise in the division in which the action is brought, that the witnesses for the defence, or some of them, reside in the division in which the defendants, or one of them, resided or carried on business at the time the action was brought, and that the application is not made for the purpose of delay, and the dates of the next two sittings of the court to which it is sought to have the action transferred shall also be shown.

Order and papers to be transmitted to clerk

(4) The order shall direct at what sittings of the court the action is to be tried, subject to all rights of postponement as in other cases, and shall be attached by the clerk to the summons and other proceedings in the action, and he shall forthwith transmit them to the clerk of the court to which the action is transferred, and enter a minute thereof in his procedure book.

To be entered in procedure book

(5) Upon receipt of the order and other papers by the clerk of such last-mentioned court, he shall enter the action and proceedings in his procedure book.

Style

(6) All the papers and proceedings in the action thereafter shall be entitled and carried on as though the action had originally been entered in the last-mentioned court.

Service of order

(7) The defendant shall forthwith serve a copy of the order upon the plaintiff or his agent. R.S.O. 1960, c. 110, s. 69.

70.—(1) If it appears that an action should have been entered in some other court of the same or some other county, it shall not fail for want of jurisdiction, but, on such terms as the judge orders, all the papers and proceedings in the action may be transferred to any court having jurisdiction in the premises, and shall become proceedings thereof as if the action had been entered therein, and shall be continued as if it had originally been entered in the last-mentioned court. When action entered in wrong court

(2) The clerk of the court to which the proceedings have been transferred shall place the action on the list for trial at the next sittings of his court that commence six clear days or more after he receives the papers, and he shall forthwith after receiving the papers notify the parties or their agents by registered mail of the date, hour and place of the sittings, and the clerk issuing the summons shall certify in detail to the court to which the action is transferred all the costs incurred up to the date of the transfer. R.S.O. 1960, c. 110, s. 70. Clerk to place on list and notify parties

PROCEDURE BEFORE TRIAL

71.—(1) The plaintiff shall enter his claim with the clerk and shall at the time of the entry leave with the clerk a copy of the claim for each defendant. Entry of claim

(2) The claim shall set out the particulars thereof with reasonable certainty and detail. Particulars

(3) Each claim shall be numbered by the clerk according to the order in which it is entered, and a summons shall be issued by the clerk, bearing the number of the claim on the margin thereof. R.S.O. 1960, c. 110, s. 71. Summons

72. In an action on a promissory note, bill of exchange or cheque, the note, bill or cheque shall be filed with the clerk before judgment, unless otherwise ordered or unless it be shown that the note, bill or cheque is lost or that it cannot for some other reason be produced. R.S.O. 1960, c. 110, s. 72. Promissory note, etc., to be filed

73. The clerk shall annex the plaintiff's claim to the summons and shall deliver copies of the summons and claim to the proper person to serve it. R.S.O. 1960, c. 110, s. 73. What to accompany summons

74. Where the amount of the claim is $60 or more, the service shall be personal and, where the amount is less than $60, the service shall be on the defendant, his wife or servant, or on a grown-up person in the defendant's usual place of residence or business. R.S.O. 1960, c. 110, s. 74. Method of service of claim

75. The judge may make an order for substitutional service or for service by advertisement or otherwise. R.S.O. 1960, c. 110, s. 75. Substitutional service

Service on corporations

76.—(1) Every summons or process, whether before or after trial, against a corporation, firm or individual whose chief place of business is not in the division in which the summons or process is issued, and all subsequent papers and proceedings in the action, may be served on the agent of the corporation, firm or individual whose office or place of business as such agent is either in the division from the court of which the summons or process issued, or is nearest thereto.

Interpretation

(2) For the purpose of this section, "agent" includes,

(*a*) in the case of a railway company, a stationmaster having charge of a station of the company;

(*b*) in the case of a telegraph company, a person having charge of a telegraph office of the company;

(*c*) in the case of an express company, a person having charge of an express office of the company;

(*d*) in the case of any other corporation, firm or individual, a manager or other principal officer in charge of the office or place of business. R.S.O. 1960, c. 110, s. 76.

Notice of dispute

77. Where a party to an action intends to dispute the claim made against him, he shall leave with the clerk within ten days of the service upon him of the summons or other process constituting a notice of the claim a notice of dispute setting out his reasons for disputing the claim together with sufficient copies thereof, and the clerk shall forthwith send a copy thereof to each of the plaintiffs or other parties to the action. R.S.O. 1960, c. 110, s. 77.

Dispute as to territorial jurisdiction

78. Subject to subsection 5 of section 88, where a party to an action intends to contest the territorial jurisdiction of the court, he shall include in his notice of dispute a statement that he disputes the jurisdiction of the court, and in default of such notice the jurisdiction shall be considered as established and determined and all proceedings may thereafter be taken as fully and effectually as if the action had been properly entered or taken in such court. R.S.O. 1960, c. 110, s. 78.

Leave to dispute claim before judgment

79. At any time before judgment is entered, although the time for giving the notice disputing the plaintiff's claim has expired, the judge, on sufficient grounds shown and on such terms as to him seem just, may give leave to the defendant to dispute the plaintiff's claim, in which case the notice disputing the claim shall immediately be left with the clerk and also delivered to the plaintiff or sent to him by registered mail. R.S.O. 1960, c. 110, s. 79.

Withdrawal of defence

80. A defendant who has filed a notice disputing the claim may, by notice to the clerk at least six days before the sittings at

which the action may be tried, consent that judgment be entered against him for any amount, and the clerk shall immediately notify the plaintiff thereof by registered mail, and thereupon the plaintiff is entitled to have judgment entered by the clerk as by default for such amount and the costs necessarily incurred. R.S.O. 1960, c. 110, s. 80.

Notice of set-off or other statutory defence R.S.O. 1970, c. 246.

81.—(1) Where the defendant desires to avail himself of the laws of set-off, or of *The Limitations Act,* or of a defence under any other statute, he shall give notice thereof to the plaintiff.

Evidence of set-off

(2) Except by leave of the judge, no evidence of set-off shall be given by the defendant except such as is contained in the particulars delivered.

Where set-off exceeds amount due to plaintiff

(3) If the set-off proved exceeds the amount found to be due to the plaintiff, judgment shall be entered for the defendant for the excess, if the excess is an amount within the jurisdiction of the court, but, if the excess is an amount beyond the jurisdiction of the court, the judge may order that an amount of the set-off equal to the amount found to be due to the plaintiff be satisfied by the claim, but the adjudication is not a bar to the recovery by the defendant in a subsequent action for the residue of the set-off. R.S.O. 1960, c. 110, s. 81.

Plea of tender with payment of money into court

82.—(1) If the defendant desires to plead a tender before action of a sum of money in full satisfaction of the plaintiff's claim, he may do so on filing his notice of dispute and at the same time paying into court the amount mentioned in the notice, and notice of the dispute and payment shall be forthwith sent by the clerk to the plaintiff by registered mail or delivered at his usual place of residence or business.

Notice by plaintiff

(2) The plaintiff shall be deemed to have accepted the money in full satisfaction of his claim, and all proceedings in the action shall be stayed unless within five days after the receipt of notice of the payment he signifies in writing to the clerk his intention to proceed for his claim notwithstanding such defence, in which case the action shall proceed.

If plaintiff does not give notice

(3) If the plaintiff does not give the notice mentioned in subsection 2, the money shall be paid to him less $1 to be paid over to the defendant for his trouble.

Giving of notice after time limited

(4) The judge may allow the plaintiff to give the notice to the clerk after the expiration of the five days on such terms as to him seem just.

Rule as to costs where plaintiff proceeds for balance

(5) If after tender and payment into court the plaintiff proceeds with the action and does not recover more than the sum paid into court, he shall pay the defendant his costs, charges and expenses, and the amount thereof may be paid to the defendant

out of the money so paid in, or may be recovered from the plaintiff in the same manner as money payable under a judgment, but, if the plaintiff recovers more than the sum paid into court, the full amount paid into court shall be applied towards the satisfaction of his claim, and judgment may be given against the defendant for the residue and costs of the action. R.S.O. 1960, c. 110, s. 82.

Defendant may pay money into court

83.—(1) The defendant may, within the time limited for filing his notice of dispute, pay into court a sum in full satisfaction of the plaintiff's claim, together with the plaintiff's costs up to the time of such payment.

Clerk to give notice of payment to plaintiff

(2) The clerk shall forthwith deliver or send notice of such payment by registered mail to the plaintiff, and the sum so paid shall be paid to the plaintiff, and he shall be deemed to have accepted it in full satisfaction of his claim, and all proceedings in the action shall be stayed, unless within five days after the receipt of the notice the plaintiff gives notice to the clerk of his intention to proceed for the remainder of his claim, in which case the action shall proceed.

Notice may be given after five days

(3) The judge may allow the plaintiff to give the notice to the clerk after the expiration of the five days on such terms as to him seem just.

Plaintiff to pay defendant's costs if no further sum recovered

(4) If the plaintiff recovers no more than the sum paid into court, he shall pay the defendant all costs, charges and expenses incurred by him in the action after such payment, to be taxed and recovered by the same means as any other sum ordered by the court to be paid. R.S.O. 1960, c. 110, s. 83.

Clerks and bailiffs may take confessions

84.—(1) A clerk or bailiff may take a confession or acknowledgment of debt from a defendant in the prescribed form, which shall be witnessed by the clerk or bailiff at the time of the taking thereof, and, upon the production of the confession or acknowledgment to the judge and proof thereof by the oath of the clerk or bailiff, the judge may order that judgment be entered thereon.

Oath of clerk or bailiff

(2) The oath shall state that the party making it has not received, and that he will not receive, anything from the plaintiff or defendant or any other person except his lawful fees for taking the confession or acknowledgment and that he has no interest in the demand sought to be recovered.

Judgment on consent

(3) Either party may apply to a judge for judgment to be signed on consent. R.S.O. 1960, c. 110, s. 84.

Striking out and adding parties

85.—(1) The judge at any stage of the proceedings upon such terms as appear to him to be just may order that the name of the plaintiff, defendant, or garnishee improperly joined be struck out and that a person who ought to have been joined or whose presence is necessary in order to enable him effectually and

completely to adjudicate upon the questions involved in the action be added as plaintiff, defendant or garnishee.

Substituting or adding plaintiff

(2) Where an action has been commenced in the name of the wrong person as plaintiff or where it is doubtful whether it has been commenced in the name of the right plaintiff, the judge, if satisfied that it has been so commenced through a *bona fide* mistake and that it is necessary for the determination of the real matter in dispute so to do, may order any other person to be substituted or added as plaintiff upon such terms as he considers just.

Consent of party added required

(3) No person shall be added or substituted as a plaintiff or as a next friend unless his consent in writing thereto is filed.

Service on parties added

(4) A person who is added as a defendant or garnishee shall be served with a copy of the summons, the original summons being first amended, and the proceedings against him shall be deemed to have commenced from the date of the order making him a party, but, if the application to add a person as a party defendant or garnishee is made at the trial, the judge may make the order in a summary manner upon such terms as to him seem just, and may dispense with the service of a copy of the summons if such person or his agent consents thereto. R.S.O. 1960, c. 110, s. 85.

Third party

86.—(1) Where a defendant claims to be entitled to contribution or indemnity from or any other relief over against a person not a party to the action or against another defendant, hereinafter called a third party, he may, within the time limited for entering his dispute, enter with the clerk his account, claim or demand in writing in detail, and, in cases of tort, particulars of his demand, against the third party stating the nature and grounds thereof, and shall at the same time deliver to the clerk a copy, and, if necessary, copies of his account, claim or demand, and shall pay to the clerk the prescribed fees.

Summons to third party

(2) The clerk upon receipt of the prescribed fees shall annex the account, claim or demand and particulars, if any, to a copy of the summons to the defendant and shall deliver a copy thereof to the proper person for service upon the third party.

Procedure

(3) The practice and procedure as between the defendant and the third party shall be the same *mutatis mutandis* as the practice and procedure as between a plaintiff and defendant, and the judge may make such direction as appears proper for having the question between the defendant and the third party most conveniently determined and as to the mode and extent in or to which the third party shall be bound or made liable by the judgment in the action and may make such order or give such judgment against the third party as is required.

Default of appearance

(4) Where a third party makes default in entering an appearance and if the action is tried and results in favour of the plaintiff, the judge who tries the action may, at or after the trial, direct such judgment as the nature of the case requires to be entered for the defendant giving the notice against the third party.

Delay to be avoided

(5) A plaintiff shall not be prejudiced or unnecessarily delayed by reason of questions between the defendant and the third party in which he is not concerned, and such directions shall be given and terms imposed as are necessary to prevent delay of the plaintiff where it can be done without injustice to the defendant and the third party. R.S.O. 1960, c. 110, s. 86.

Where no dispute, general rule

87. Where in an action in which the claim is not a debt or money demand the defendant does not leave a notice of dispute with the clerk within ten days of the service upon him of the summons and claim, the plaintiff shall not be required to prove liability but shall prove the amount of his claim in court. R.S.O. 1960, c. 110, s. 87.

Default judgment

88.—(1) Where in an action for the recovery of a debt or money demand the defendant does not leave a notice of dispute with the clerk within ten days of the service upon him of the summons and claim, final judgment may be entered by the clerk at any time within six months of the return of the summons, or, by the order of the judge, at any time thereafter for the amount claimed, and execution may issue thereon without prejudice to the right of the plaintiff to proceed for the remainder of his claim.

Dispute as to part of claim

(2) Where in an action for the recovery of a debt or money demand a notice of dispute is filed in respect of part only of the plaintiff's claim, subsection 1 applies to the other part of the claim.

Proof of service

(3) Judgment shall not be entered until the summons and claim with an affidavit of the due service of both have been filed.

Judge may set aside judgment

(4) The judge may set aside the judgment and permit the case to be tried on such terms as to him seem just.

Default judgment not to be entered until proper court proved

(5) Where a summons has been forwarded for service in another division under section 22 and the defendant does not leave a notice of dispute with the clerk within ten days of the service upon him of the summons and claim, the clerk shall not enter judgment until it is proved in court that the action was entered in the proper court, and, if the judge is satisfied that the action was not entered in the proper court, he shall transfer the case to the proper court on such terms as to him seem just. R.S.O. 1960, c. 110, s. 88.

Judgment by default under s. 88, where final judgment not entered

89. Where proof is made by affidavit or otherwise of the service of a debt or money demand summons and of the claim as

required by section 88 and judgment has not been entered under such section, the judge may, if the defendant does not in person or by agent appear in open court as required by the summons, give judgment against him by default without requiring proof of the plaintiff's claim. R.S.O. 1960, c. 110, s. 89.

Motion for judgment

90.—(1) In an action for $25 or more commenced by a debt or money demand summons, the plaintiff, on an affidavit made by himself or any other person swearing positively to the facts and verifying the cause of action and the amount claimed and stating that in his belief there is no defence to the action, and the reasons why immediate judgment should be granted, may concurrently with the service of the debt or money demand summons, or at any subsequent time, serve the defendant with a notice of motion and copy of the affidavit, returnable not less than four clear days after service, to show cause before the judge why the plaintiff should not be at liberty to have final judgment entered by the clerk for the amount of the debt or money demand sought to be recovered, together with interest, if any, and costs.

Idem

(2) The judge thereupon, if the reasons for immediate judgment appear to be sufficient, unless the defendant or his agent by affidavit or otherwise satisfies him that the defendant has a good defence to the action on the merits, or discloses such facts as the judge considers sufficient to entitle him to defend the action, may make an order empowering the clerk to sign final judgment.

How defendant may show cause

(3) The defendant may show cause by offering to bring into court the amount sought to be recovered, or by affidavit which shall state whether the defence he alleges goes to the whole or to part only, and if to part only, then to what part of the claim, and the judge may, if he thinks fit, order the defendant to attend and be examined upon oath, and to produce any books and documents, or copies thereof, or extracts therefrom.

Partial defence

(4) If it appears that the defence applies only to a part of the claim, or that part of the claim is admitted to be due, the plaintiff is entitled to have final judgment entered forthwith for such part of his claim as the defence does not apply to or as is admitted to be due, subject to such terms, if any, as to suspending execution, payment of any amount levied, or any part thereof, into court by the bailiff, the taxation of costs or otherwise, as to the judge seems just, and the defendant may be allowed to defend as to the residue of the claim.

Where one defendant has good defence

(5) If it appears to the judge that a defendant has a good defence, or ought to be permitted to defend, and that any other defendant has not such defence, and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff is entitled to have judgment entered against the latter, and may issue execution upon the judgment without prejudice to his right to proceed with his action against the former.

Terms upon giving leave to defend

(6) Leave to defend may be given unconditionally or subject to such terms as to giving security or otherwise as to the judge seem just.

Setting aside or varying order

(7) Within seven days after making the order and upon good grounds being shown, the judge may set aside or vary the order upon such terms as to him seem just. R.S.O. 1960, c. 110, s. 90.

TRIALS, WITNESSES, EVIDENCE

Judge may summarily dispose of action

91.—(1) Where a trial is to be had, the defendant shall either personally or by agent appear in the court to answer, and, on answer being made, the judge shall without further pleading or formal joinder of issue proceed in a summary way to try the action and give judgment, and, if satisfactory proof is not given entitling either party to judgment, he may nonsuit the plaintiff.

Scope of evidence

(2) No evidence shall be given of any cause of action except such as is contained in the claim as entered by the plaintiff, unless the judge in the special circumstances of any case otherwise directs. R.S.O. 1960, c. 110, s. 91.

Actions over $200

92.—(1) The clerk shall place all actions in which the sum sought to be recovered exceeds $200 at the foot of the trial list and the judge shall in such cases, unless an agreement not to appeal has been signed and filed as provided by section 107, take down the evidence in writing or cause the same to be taken down in shorthand by a shorthand writer appointed under section 13 of *The County Judges Act*, or by some other competent person. R.S.O. 1960, c. 110, s. 92 (1); 1964, c. 25, s. 1.

R.S.O. 1970, c. 95

Evidence taken down by judge

(2) Where the evidence is taken down by the judge in writing, it shall be left with the clerk and, in the event of an application for a new trial, it shall be forwarded to the judge by the clerk for the purposes of the application.

Shorthand writer's notes

(3) Where the evidence is taken down in shorthand, it is not necessary for the shorthand writer to extend or transcribe his notes except in the case of an appeal or an application for a new trial.

Fees and expenses

(4) The fees and expenses of a shorthand writer appointed under section 13 of *The County Judges Act* attending for the purpose of taking down the evidence as provided in subsection 1 shall be borne and paid in the same manner as the fees and expenses of a shorthand writer attending a sittings of a county or district court. R.S.O. 1960, c. 110, s. 92 (2-4).

Proceedings in case defendant does not appear

93. If the defendant does not appear at the trial or sufficiently excuse his absence, or if he neglects to answer, the judge, on proof of due service of the summons and particulars, may proceed with the trial in his absence, and, except where the plaintiff's claim is

for unliquidated damages in case of the personal service of the summons and of detailed particulars of the plaintiff's claim, the judge may, in his discretion, give judgment without further proof. R.S.O. 1960, c. 110, s. 93.

Judge may adjourn hearing of cause

94. The judge may adjourn the trial of an action to permit either party to summon witnesses or to produce further proof, or to serve or give any notice necessary to enable him to enter more fully into his case or for any cause that the judge thinks reasonable, upon such conditions as to payment of costs and admission of evidence, or otherwise, as to him seem just. R.S.O. 1960, c. 110, s. 94; 1968-69, c. 30, s. 2.

Parties may obtain subpoenas from clerk

95.—(1) A party may obtain from the clerk of any small claims court in the county a subpoena with or without the clause for the production of books, papers and documents, requiring any witness, resident in Ontario or served with the subpoena therein, to attend at a specified court or place before the judge, or an arbitrator appointed by him under the provisions hereinafter contained, and the clerk, when requested by a party or his agent, shall furnish copies of such subpoena.

Service of subpoena

(2) Any number of names may be inserted in a subpoena, and service thereof may be made by any literate person personally or by leaving a copy thereof at the usual place of abode of the witness, and proof of service and of tender or payment of witness fees and mileage may be received by the judge, either orally or by affidavit. R.S.O. 1960, c. 110, s. 95.

Penalty for disobeying subpoena or refusing to be sworn

96.—(1) Every person served with a copy of a subpoena to or for whom at the time of service a tender or payment of his witness fees and mileage has been made, who refuses or neglects without sufficient cause to obey the subpoena, and every person in court called upon to give evidence who refuses to be sworn or to give evidence, is liable to pay such fine, not exceeding $8, as the judge orders, and is also liable to imprisonment for a term not exceeding ten days on the order of the judge.

Enforcing payment of fine

(2) The fine shall be levied and collected with costs by the same process as a judgment recovered in the court, and the whole or any part of the fine, after deducting the costs, is applicable, in the discretion of the judge, towards indemnifying the party injured by such refusal or neglect, and the remainder forms part of the Consolidated Revenue Fund. R.S.O. 1960, c. 110, s. 96.

Power to issue commissions to take evidence

97.—(1) If a party is desirous of having at the trial or hearing the testimony of a person residing out of Ontario, the judge, upon hearing the parties, may order the issue of a commission out of and under the seal of the court to a commissioner to take the examination of such person.

Applicant and employees

(2) An order shall not be made for the issue of a commission for taking the testimony of the party applying therefor, or of any person in his employment, unless in the opinion of the judge a saving of expenses will be caused thereby, or unless it is clearly made to appear that the party or person is aged, infirm, or unable from sickness to appear as a witness.

Persons in Ontario

(3) If it is made to appear to the judge that a material and necessary witness residing in Ontario is sick, aged or infirm, or that he is about to leave Ontario, and that his attendance as a witness cannot be procured, the judge may make an order appointing a suitable person to take his testimony.

Idem

(4) An order may also be obtained for the examination of a witness who resides in a remote part of Ontario and at a great distance from the place of trial, if it is made to appear that his attendance cannot be procured, or that the expense of his attendance would be out of proportion to the amount involved in the action, or so great that the party desiring his attendance should not under the circumstances be required to incur such expense.

Service of order

(5) A copy of the order, with two days notice of the time and place of the examination, shall be served upon the opposite party, or his agent, who may appear and cross-examine the witness.

Rules, S.C.O.

(6) The rules of the Supreme Court, so far as they are applicable, apply to every commission or order issued under this section.

Costs of commission

(7) The costs of the issue, transmission, execution and return of a commission issued or order made under this section are in the discretion of the judge, who may allow a sum in gross therefor, and the costs may be added to any other costs to be paid to the party entitled thereto, and may be recovered in like manner as the ordinary costs of an action. R.S.O. 1960, c. 110, s. 97.

Admissibility of books of account

98. In an action for a debt or money demand of not more than $25, and in case of a defence of set-off or of payment so far as it extends to $25, the judge, on being satisfied of their general correctness, may receive the plaintiff's, defendant's or garnishee's books as evidence, and may also receive as evidence the affidavit of any party or witness resident out of the county, but may require the party or witness to answer written interrogatories upon oath. R.S.O. 1960, c. 110, s. 98.

When evidence may be given by affidavit

99.—(1) In an action, the judge may in his discretion permit the evidence of any person out of the jurisdiction or in some remote part of Ontario to be given by affidavit upon such terms as to cross-examination, the answering of written interrogatories upon oath and the production of books and papers for inspection and otherwise as he considers necessary.

(2) Where in the opinion of the judge expense is unnecessarily incurred by reason of any objection of either party to the reception of affidavit evidence or by cross-examination, he may order that party to pay the costs of both parties occasioned by the objection. R.S.O. 1960, c. 110, s. 99.

Costs occasioned by objection to affidavit evidence

100. A barrister or solicitor, or any other person not prohibited by the judge, may appear at the trial or hearing of an action as agent for a party thereto. R.S.O. 1960, c. 110, c. 100.

Who may act as agents at trial

101. The judge shall, in court, openly, and as soon as may be after the trial, pronounce his decision, but, if he is not then prepared to pronounce a decision, he may postpone it until it is convenient for him to give it, and he shall then send it to the clerk, who shall forthwith enter the judgment and by registered mail notify the parties or their agents thereof. R.S.O. 1960, c. 110, s. 101.

Judge may give judgment instanter or postpone judgment

102.—(1) The judge may order the times and the proportions in which a sum and costs recovered by judgment shall be paid, having regard to section 117.

Order as to payment

(2) Unless otherwise ordered, execution shall not issue within fifteen days after the entry of judgment, but the judge may order the amount of the judgment or any instalment thereof to be paid into court. R.S.O. 1960, c. 110, s. 102.

Execution not to issue for 15 days after judgment

103.—(1) Unless otherwise provided, the costs of and incidental to all actions are in the discretion of the judge, who has full power to determine by whom and to what extent costs shall be paid.

Judge's authority as to costs

(2) If a judge does not make an order as to costs, they abide the event of the action.

Costs to abide event except by order

(3) Where the plaintiff does not appear or does not prove his claim, the judge may award to the defendant a sum for his trouble and attendance not exceeding what he would be entitled to if a witness on his own behalf, to be recovered by execution.

Allowance to defendant for attendance

(4) Where the plaintiff fails to recover judgment by reason of the court not having jurisdiction, the judge nevertheless has the power conferred by subsection 1, and the recovery of the costs awarded may be enforced by the same remedies by which costs of proceedings within the proper competence of the court are recoverable. R.S.O. 1960, c. 110, s. 103.

Costs when action fails for want of jurisdiction

104.—(1) Where in an action for more than $200 that is contested as to liability or quantum, and in the cases mentioned in clauses *b* and *c* of section 108, a counsel or solicitor has been employed by the successful party in the conduct of the cause or

Counsel fee, where action contested

defence, the judge may direct that a sum of $5, to be increased according to the difficulty and importance of the case to not more than $40 or, if the case occupies more than one day, to not more than $50, be allowed to the successful party and it shall be added to the costs.

where assessment uncontested

(2) Where in an assessment of damages, upon which the defendant does not appear personally or by counsel and in which judgment is given for more than $200, a counsel or solicitor has been employed by the plaintiff, the judge may direct that a sum of $5, to be increased according to the difficulty and importance of the case to not more than $25, be allowed to the plaintiff and it shall be added to the costs.

where adjournment

(3) Where a party applies for and obtains an adjournment in an action involving more than $200 that is contested as to liability or quantum, the presiding judge may, if he is of opinion that counsel for any of the other parties has been unduly inconvenienced by the adjournment, award him a counsel fee of $10. R.S.O. 1960, c. 110, s. 104; 1964, c. 25, s. 2.

Costs of witnesses in certain cases

105. Where the defendant having disputed the plaintiff's claim, afterwards and before the opening of the court, confesses judgment or pays the claim so short a time before the sittings of the court that the plaintiff cannot in the ordinary way be notified thereof, and without such notice the plaintiff in good faith and reasonably incurs expenses in procuring witnesses or in attending at court, the judge may order the defendant to pay such costs or such portion thereof as to him seem just. R.S.O. 1960, c. 110, s. 105, *amended*.

NEW TRIALS: APPEALS

New trial

106.—(1) Upon application made within fourteen days after the trial or, where the decision is not given at the trial, after the mailing of the notice of the decision to the party applying and upon good grounds being shown, the judge, after affording the other parties to the action an opportunity to be heard, may grant a new trial upon such terms as he thinks proper.

Extending time for application

(2) If reasonable excuse for the delay is shown to the satisfaction of the judge, the application may be made at any time within fourteen days after the expiration of the first-mentioned fourteen days.

Where personal service not affected

(3) Where the summons has not been personally served, the application may be made at any time within fourteen days after the judgment has come to the knowledge of the defendant.

Judgment on application for new trial

(4) Instead of granting a new trial, the judge may pronounce the judgment that in his opinion ought to have been pronounced at the trial, and may order judgment to be entered accordingly.

(5) Either upon the application or upon granting a new trial, the judge may make such order staying proceedings as he considers proper. R.S.O. 1960, c. 110, s. 106. Stay of proceedings

107. An appeal does not lie if, before the commencement of the trial, there is filed with the clerk an agreement in writing not to appeal, signed by the parties or their agents, and the judge shall note in his minutes whether or not the agreement was so filed, and the minutes are conclusive evidence upon that point. R.S.O. 1960, c. 110, s. 107. Parties may agree not to appeal

108.—(1) Subject to section 107, an appeal lies to the Court of Appeal from the decision of the judge at or after the trial or upon an application for a new trial, except in cases where a new trial has been granted, Appeal to Court of Appeal

(*a*) in an action or garnishee proceeding where the sum in dispute exceeds $200, exclusive of costs;

(*b*) in interpleader where the money or the value of the goods or chattels claimed or proceeds thereof exceed $200, or where the damages claimed by or awarded to either party against the other or against a bailiff exceeds the sum of $120;

(*c*) where the parties consent to an appeal; or

(*d*) where the effect of the decision is to determine that a general assessment made by a mutual insurance company is invalid, but the company, unless the Court of Appeal otherwise directs, shall pay the respondent's costs of the appeal between solicitor and client on the county court scale in any event. R.S.O. 1960, c. 110, s. 108; 1964, c. 25, s. 3.

(2) On the day on which section 17 of *The Judicature Act* is proclaimed in force, subsection 1 is amended by striking out "Court of Appeal" in the first and second lines and in the fourth line of clause *d* thereof and by inserting in lieu thereof in each instance "Supreme Court". 1970, c. 120, ss. 8, 15 (4). Amendment to subs. 1 R.S.O. 1970, c. 228

109. Where a claim and counterclaim arise out of the same transaction or occurrence and an appeal is brought from the judgment upon either, the judgment upon both is subject to review by the court. R.S.O. 1960, c. 110, s. 109. Appeal, where counter-claim

110.—(1) Where an appeal lies, each party shall, before or at the trial, leave with the clerk a memorandum in writing of the name and place of residence of some person resident in the county town upon whom the notice of appeal, and all other papers thereafter requiring service, may be served for him, and service Agents for service where right to appeal

upon such person, or, in his absence, at his place of residence, is sufficient, and, in the event of failure to leave such memorandum, all papers requiring service upon the party so failing may be served upon the clerk, or left at his office, and the clerk shall forthwith send, by registered mail, all papers so served upon him, to the person entitled thereto.

Case of judicial district

(2) This section does not apply to a provisional judicial district. R.S.O. 1960, c. 110, s. 110.

Certified proceedings, etc., to be furnished by clerk

111. The clerk shall, at the request of the appellant or his agent, certify under his hand to the Registrar of the Supreme Court at Toronto, the summons with all notices endorsed thereon, the claim, and any notice of defence, the evidence and all objections and exceptions thereto, and all motions or orders made, granted, or refused therein, together with such notes of the judge's charge as were made, the decision when in writing, or the notes thereof, and all affidavits and other papers in the action, and shall furnish to the parties, when required so to do, copies of the proceedings so certified, or such part thereof as is required, and for every copy he is entitled to receive 5 cents for every 100 words. R.S.O. 1960, c. 110, s. 111; 1970, c. 120, s. 9.

Appeal, when and how made

112.—(1) The appeal shall be made in the time and manner prescribed by the rules of court and shall be heard and determined by one justice of appeal.

Stay of proceedings

(2) After the appeal has been set down to be heard, the execution of the judgment appealed from shall be stayed pending the appeal, unless otherwise ordered by a judge of the Supreme Court. R.S.O. 1960, c. 110, s. 112.

Amendment to subs. 1 R.S.O. 1970, c. 228

(3) On the day on which section 17 of *The Judicature Act* is proclaimed in force, subsection 1 is amended by striking out "and shall be heard and determined by one justice of appeal" in the second and third lines. 1970, c. 120, ss. 10, 15 (4).

Powers and duties of Court of Appeal R.S.O. 1970, c. 94

113.—(1) On an appeal to the Court of Appeal under this Act, the Court of Appeal has the same powers and duties as in an appeal coming before it under *The County Courts Act* and the practice and procedure applicable thereto applies *mutatis mutandis* to appeals under this Act. R.S.O. 1960, c. 110, s. 113.

Amendment to subs. 1

(2) On the day on which section 17 of *The Judicature Act* is proclaimed in force, subsection 1 is amended by striking out "Court of Appeal" in the first line and in the second line and inserting in lieu thereof in each instance "Supreme Court". 1970, c. 120, ss. 11, 15 (4).

Taxable costs on appeal

114. The costs taxable between party and party of and incidental to an appeal are the actual disbursements, and no greater amount over and above actual disbursements than $25

inclusive of counsel fee, and the costs of an appeal between solicitor and client are taxable on the county court scale. R.S.O. 1960, c. 110, s. 114.

Rehearing

115.—(1) Where the judge before whom an action is tried dies before giving judgment, or having reserved his judgment after having heard the evidence does not deliver judgment within six months thereafter, any party may, upon notice to all other parties, apply to the Chief Judge of the County and District Courts for an order directing that the action be reheard by such judge as he designates. 1961-62, c. 35, s. 4, *part*; 1968-69, c. 30, s. 3.

Idem

(2) An order made under subsection 1 shall name the place where the action is to be reheard, and in making such order the chief judge may give such other directions as he considers fit.

Further evidence

(3) No further evidence shall be received upon such rehearing except by leave of the court.

Further proceedings

(4) No proceedings in the action shall thereafter be taken without the order of the chief judge after notice.

Judgment on rehearing

(5) Upon such rehearing, the evidence, exhibits, and papers used at the trial shall be read, and after argument by counsel the presiding judge shall deal with the action as on an original trial and shall direct that judgment be entered by the court clerk in accordance with his findings.

Costs of rehearing

(6) The costs of the rehearing shall be fixed by the judge presiding at the rehearing, who shall also direct by whom they are to be paid.

Appeal

(7) An appeal lies from such judgment or finding in the same manner and on the same terms as if the judgment had been pronounced at the trial. 1961-62, c. 35, s. 4, *part*.

JUDGMENTS; EXECUTIONS; TRANSCRIPTS

When money not paid pursuant to order, execution to issue

116.—(1) Where the judge gives judgment or makes an order for the payment of money and default is made in payment of the whole or of any part thereof, the party in whose favour the order has been made is entitled to execution against the goods and chattels and, subject to section 126, the land of the party in default.

Form of execution

(2) The clerk, at the request of the party prosecuting the judgment or order, shall issue an execution to a bailiff of the court, or to a bailiff of any other court in the county, who by virtue thereof shall levy by distress and sale of the goods and chattels of the party in default such sum and costs, with interest thereon from the date of the order or of the entry of the judgment, as have been ordered to be paid and remain due, and shall pay such sum, costs and interest over to the clerk.

Jurisdiction of bailiff

(3) The bailiff of a small claims court has jurisdiction throughout the county to enforce execution and levy by distress and sale of the goods and chattels of the debtor the amount of any judgment and costs and to carry out all other process and proceedings to enforce payment of the judgment, and, where the limits of a small claims court include parts of two counties, such jurisdiction applies throughout both of such counties, but, where a bailiff goes outside the limits of the division for which he is appointed under this subsection, he is not entitled to any mileage allowance in respect of travel outside such division. R.S.O. 1960, c. 110, s. 115.

Execution not to be postponed for more than fifty days

117. Except where a new trial is granted, the issue of execution shall not be postponed for more than fifty days from the service of the summons, without the consent of the party entitled thereto, but, if it is proved to the satisfaction of the judge that a party is unable from sickness or other cause to pay the debt or damages recovered against him, or any instalment thereof ordered to be paid, or that for any other reason the issue of execution should be further postponed, the judge may stay the judgment, order or execution for such time and on such terms as he thinks fit, and so from time to time until it is proved that the cause of disability has ceased. R.S.O. 1960, c. 110, s. 116.

Cross judgments may be set off

118. If there are cross judgments between the parties, the party who has obtained judgment for the larger sum shall have execution for the excess and satisfaction for the remainder, and also satisfaction on the judgment for the smaller sum shall be entered, and, if both sums are equal, satisfaction shall be entered upon both judgments. R.S.O. 1960, c. 110, s. 117.

Writs of execution, where to be executed

119. Except in actions brought under section 65, an execution or attachment shall not be executed out of the limits of the county over which the judge of the court from which the execution or attachment issues has jurisdiction. R.S.O. 1960, c. 110, s. 118.

Effect of payment of execution before sale

120. Where the party against whom an execution has been issued pays or tenders to the clerk or to the bailiff, before an actual sale of his goods and chattels, the amount to be levied or so much thereof as the party in whose favour the execution has issued agrees to accept in full of his debt, together with the fees to be levied, the execution shall thereupon be superseded, and the bailiff shall withdraw from possession. R.S.O. 1960, c. 110, s. 119.

Notice to plaintiff of *nulla bona* return

121.—(1) The clerk, immediately after a return of *nulla bona* has been made to an execution issued on a transcript of judgment, shall forward by registered mail to the plaintiff and to the clerk who issued the transcript a notice informing them of the date at which the execution issued, the date at which it was returned by the bailiff, and the return made.

(2) The clerk shall file among the papers in the action the post-office certificate of registration, and the absence from among the papers of the certificate is *prima facie* evidence against the clerk that the notice was not forwarded. R.S.O. 1960, c. 110, s. 120. Registration certificate to be filed

122. Where a memorandum of the amount of a judgment or execution or a certificate of a claim within the jurisdiction of a small claims court is filed with a sheriff under *The Creditors' Relief Act*, and the amount is not paid in full, and the sheriff is unable to make the money thereon, the creditor may obtain from the sheriff a return according to the fact and file it with the clerk of the court in which the judgment was recovered, or, in the case of a certificate of a claim, with the clerk of the court of the division where the cause of action arose or where the debtor or one of the debtors, if more than one, resides, and the clerk shall enter the return in his procedure book, and in the latter case the claim thereupon becomes a judgment of the court for the unpaid balance due thereon appearing by the return and may be enforced in the same manner as a judgment of the court. R.S.O. 1960, c. 110, s. 121. Enforcing claims under R.S.O. 1970, c. 97 in small claims courts

123. In the case of the death of either or both of the parties to a judgment, the party in whose favour the judgment has been entered, or his personal representative in case of his death, may in the prescribed form revive the judgment against the other party, or his personal representative in case of his death, and may issue execution thereon. R.S.O. 1960, c. 110, s. 122. Revivor of judgment in case of death of party

124.—(1) Every execution against goods shall bear the date of its issue and is returnable immediately after the execution thereof, and, if unexecuted, remains in force for three months, unless renewed, but may be renewed from time to time in the prescribed manner by the clerk at the instance of the execution creditor for six months from the date of the renewal. Execution, when dated and returnable

(2) The execution so renewed has effect and is entitled to priority according to the time of the original delivery thereof to the bailiff. R.S.O. 1960, c. 110, s. 123. Priority of execution

125. Where the judge is satisfied by the oath of the execution creditor or by other testimony that he will be in danger of losing the amount of the judgment if compelled to wait until the day appointed for the payment thereof before an execution can issue, the judge may order an execution to issue at such time as he considers just. R.S.O. 1960, c. 110, s. 124. Judge may order an execution to issue before regular day

126.—(1) Where the sum remaining unsatisfied on a judgment amounts to $40 or more, the judgment creditor is entitled to an execution against the land of the judgment debtor, and the clerk, at the request of the party prosecuting the judgment, shall Executions against lands

issue an execution against the land of the judgment debtor directed to the sheriff of a county.

Effect of execution

(2) The execution has the same force and effect as an execution issued from a county court.

Notice to debtor

(3) Where an execution against lands has been placed in the hands of the sheriff, he shall give notice thereof to the judgment debtor by registered mail addressed to him at his present or last known residence.

Sheriff's return to be made to clerk

(4) The sheriff shall make a return thereof and pay any money made thereon to the clerk of the court out of which the execution issued.

Further proceedings by execution creditor

(5) Until the judgment is fully satisfied, the execution creditor may pursue the same remedy for the recovery thereof as if the judgment had been obtained in the county court.

Duration and renewal of writ

(6) The writ, if unexecuted, remains in force for three years only from its issue, unless renewed, but may be renewed from time to time in the prescribed manner by the clerk at the instance of the execution creditor for three years from the date of the renewal.

Formal effect of renewal

(7) The execution may be renewed by being marked on the margin with a memorandum signed by the clerk stating the day, month and year of the renewal, and a writ so renewed has effect and is entitled to priority according to the time of the original delivery thereof to the sheriff.

Evidence of renewal

(8) The production of an execution purporting to be marked with the memorandum is *prima facie* evidence of its having been renewed.

Fees on writ against lands

(9) The sheriff is entitled to the same fees as upon a writ of execution against land issued from a county court.

Certificate in lieu of execution

(10) Where land is on hand for want of buyers, a sheriff to whom the execution is directed may endorse thereon a return of "land on hand for want of buyers" and shall return a certificate of the endorsement to the clerk of the small claims court from whose office the execution issued in lieu of the writ, and the endorsement and the certificate so returned shall be deemed to be a return of the writ, and thereupon a writ of *venditioni exponas* may be issued by the clerk for the sale of the land, and the original execution remains in force for the residue. R.S.O. 1960, c. 110, s. 125.

Bailiff after seizure of goods to endorse date of seizure and give notice of sale

127. The bailiff, after making a seizure under an execution against goods, shall endorse thereon the date of the seizure, and shall immediately and at least eight days before the time appointed for the sale put up at three of the most public places in the division where any property liable to be sold under the execution has been taken, public notice, signed by himself, of the time and place in the division when and where it will be exposed for sale, and the notice shall describe the property taken. R.S.O. 1960, c. 110, s. 126.

128. The property so taken shall not be sold until the expiration of eight days at least after the seizure thereof, except upon the request in writing under the hand of the party whose property has been seized. R.S.O. 1960, c. 110, s. 127. Goods not to be sold until 8 days after seizure

129. Where a bailiff has seized property under an execution or attachment and the action is afterwards settled between the parties, or the defendant makes an assignment for the general benefit of his creditors, the bailiff, until his fees and disbursements are fully satisfied, has a lien therefor upon so much of the property as will reasonably satisfy such fees and disbursements, but, in the event of a dispute as to the proper amount of the fees and disbursements, the amount claimed therefor may be paid into court until the proper amount is certified by the judge, and on such payment into court the lien ceases. R.S.O. 1960, c. 110, s. 128. Bailiff's fees when action settled

130.—(1) The clerk, upon the application of a person having an unsatisfied judgment in his favour, shall prepare a transcript of the judgment in the prescribed form, and shall send it to the clerk of any other small claims court, whether in the same or in any other county, with the certificate at the foot thereof signed by him, sealed with the seal of the court, and addressed to the clerk of the court to whom it is to be sent, stating the amount unpaid upon the judgment, the date at which it was recovered, and the post-office address of the person applying for the transcript, and the clerk to whom the certificate is addressed shall, on the receipt of the transcript and the certificate, enter the transcript and the amount due on the judgment according to the certificate in a book to be kept in his office for the purpose, and all proceedings may be taken for enforcing the judgment in such last-mentioned court. Transcript of unsatisfied judgment

(2) After a transcript has been issued under this section, no further proceedings shall be had in the court from which the transcript issued without an order from the judge, unless the person who obtained the transcript, or his agent, makes and files with the clerk an affidavit stating, Proceedings stayed

(*a*) that the judgment remains unsatisfied in whole or in part;

(*b*) that the execution issued out of the court to which the transcript was sent has been returned *nulla bona*, or that he believes the judgment debtor has not sufficient goods in the division of that court to satisfy the judgment,

and, upon the affidavit being filed, the clerk may issue such other process as the applicant is entitled to and may direct.

(3) Where a person has a judgment in the Supreme Court or in a county or district court and he desires to garnish the wages of the judgment debtor, he may file a certified copy of the judgment in the small claims court having jurisdiction to issue a direction to garnish the wages of the judgment debtor, and thereupon the Transfer of Supreme Court and county court judgments

clerk of that court shall enter the judgment in the same manner as a transcript of judgment from another small claims court, and thereafter directions to garnish the wages of the judgment debtor may issue and subsequent proceedings thereon be taken as though the direction to garnish had been issued under a small claims court judgment.

Maximum amount of judgment against a garnishee

(4) Where directions to garnish are issued under subsection 3 and judgment is given against the garnishee, the judgment shall not be for an amount exceeding the jurisdiction of the court in a personal action. R.S.O. 1960, c. 110, s. 129.

JUDGMENT SUMMONS: SHOW CAUSE SUMMONS

Judgment summons

131.—(1) A party having an unsatisfied judgment may procure a judgment summons from the court out of which execution might issue, if the judgment debtor resides or carries on business within the limits of that court.

Judgment summons, issue of

(2) Where a judgment debtor resides or carries on business in a city where there are two or more small claims courts having territorial jurisdiction within the limits of the city, a judgment summons may issue out of any such court in which the judgment has been recovered or in which a transcript of judgment has been entered.

Metropolitan Toronto

(3) Subsection 2 does not apply to small claims courts in The Municipality of Metropolitan Toronto. R.S.O. 1960, c. 110, s. 130 (1-3).

Affidavit required before judgment summons

(4) Before the summons is issued the judgment creditor, or his agent, shall make and file with the clerk an affidavit stating,

(*a*) that the judgment remains unsatisfied in whole or in part; and

(*b*) in the case of a second or subsequent summons, that the deponent believes that the judgment debtor sought to be examined is able to pay the amount due in respect of the judgment or some part thereof. R.S.O. 1960, c. 110, s. 130 (4); 1968-69, c. 30, s. 4.

Examination of judgment debtor

(5) The summons shall be served personally upon the judgment debtor at least eight days before the return day, and, if he appears, he may be examined upon oath as to any and what debts are owing to him and touching his estate and effects, and the manner and circumstances under which he contracted the debt or incurred the damages or liability that formed the subject of the action, and as to the means and expectation he then had, and as to the property and means he still has of discharging the judgment debt, and as to the disposal he has made of any property.

Examination of witnesses

(6) The party obtaining the summons and all witnesses whom the judge thinks requisite may be examined upon oath, touching the inquiries.

(7) The examination shall not be held in open court unless the judge so directs. Place of examination

(8) After the examination or upon written consent signed by the judgment debtor or his solicitor, the judge may make such order as to payment of the judgment and as to the time and manner thereof as he considers proper. Order as to payment

(9) The costs of the summons and of all proceedings thereon shall be costs in the action, unless the judge otherwise directs. Costs

(10) If, after the examination, the judge dismisses the summons, no further judgment summons shall issue out of the same court against the judgment debtor at the suit of the same or any other creditor for a period of six months, except upon an affidavit satisfying the judge that since the examination the party has acquired the means of paying or that he did not then make a full disclosure of his estate, effects and debts upon the examination. R.S.O. 1960, c. 110, s. 130 (5-10). Party examined and discharged not to be again summoned

132.—(1) A party who has examined a judgment debtor under a judgment summons may procure a show cause summons from the court out of which the judgment summons issued if the judgment creditor or his agent makes and files with the clerk of the court an affidavit deposing, Show cause summons

(*a*) the particulars of the judgment and the amount thereof that remains unsatisfied;

(*b*) the particulars of the examination upon the judgment summons and of the order for payment that was made; and

(*c*) that the judgment debtor is in default under the order for a period of not less than fourteen days and the particulars thereof.

(2) The summons shall be served personally upon the judgment debtor at least eight days before the return day and, if he appears, he may be examined upon oath as to his default under the order for payment. R.S.O. 1960, c. 110, s. 131 (1, 2). Service

(3) Where the circumstances of the debtor have changed, the judge may vary the order made under section 131. 1968-69, c. 30, s. 5. Variation of order

133. If the party summoned, Committal for contempt

(*a*) does not attend as required by the summons, or at any subsequent date to which the hearing or examination is adjourned, or give a sufficient reason for not attending; or

(*b*) attends and refuses to be sworn or to answer such questions as in the opinion of the judge are proper,

the judge may order him to be committed to a correctional institution in the county in which he resides or carries on business, for any period not exceeding forty days. 1968-69, c. 30, s. 6, *amended*.

When party may be committed for non-attendance

134. A party failing to attend in answer to a judgment summons or show cause summons is not liable to be committed for the default, unless the judge is satisfied that his non-attendance is wilful. R.S.O. 1960, c. 110, s. 133.

Enforcement of committal order

135.—(1) Where a judge has ordered a judgment debtor to be committed to a correctional institution, the order shall be enforced by the bailiff, unless the judge directs that the judgment debtor appear before him at a named time and place to explain his contempt, in which case notice thereof shall be sent to the judgment debtor by registered mail.

Appearance to explain contempt

(2) Where the judgment debtor appears to explain his contempt,

(*a*) if the judge is of opinion that the default was wilful, he shall order the bailiff to enforce the warrant of commitment; or

(*b*) if the judge is of opinion that the default was not wilful, he shall order the judgment debtor to attend for examination at the next sittings of the court to be held for the hearing of judgment summonses and, in the event that the judgment debtor does not so attend, the judge presiding at the sittings may order that he be forthwith committed to a correctional institution. R.S.O. 1960, c, 110, s. 134 (1, 2), *amended*.

Non-appearance to explain contempt

(3) Where the judgment debtor does not appear at the time and place named in the notice, the judge may direct that the warrant of commitment be enforced. R.S.O. 1960, c. 110, s. 134 (3).

Costs allowed him in certain cases

136. Where at the hearing upon a judgment summons or show cause summons it appears to the judge by the examination of the party, or otherwise, that he ought not to have been summoned, or, where the judgment creditor or his agent does not appear, the judge may award the party summoned compensation for his trouble and attendance, to be recovered against the judgment creditor in the same manner as a judgment of the court. R.S.O. 1960, c. 110, s. 135.

Warrant of commitment

137.—(1) Where an order of commitment has been made, the clerk shall issue, under the seal of the court, a warrant of commitment directed to the bailiff of any court in the county and the bailiff may, by virtue of the warrant, take the party and deliver him to the superintendent of the correctional institution in which he has been directed to be imprisoned. R.S.O. 1960, c. 110, s. 136 (1); 1968-69, c. 30, s. 7, *amended*.

(2) All constables and other peace officers within their respective jurisdictions shall aid in the execution of the warrant, and the superintendent of the correctional institution shall receive and keep the party therein until discharged under this Act, or otherwise, in due course of law. R.S.O. 1960, c. 110, s. 136 (2), *amended*. Constables, etc., to execute warrants

138. A party shall be discharged out of custody, When debtor in custody shall be discharged

(*a*) by order of the judge; or

(*b*) at the expiration of the time prescribed in the warrant of commitment. R.S.O. 1960, c. 110, s. 137.

139.—(1) The judge may rescind or alter the order for payment made upon a judgment summons or show cause summons and make any further or other order for the payment of the debt or damages recovered and costs forthwith, or by instalments, or in any other manner that he thinks reasonable. Alteration of order for payment

(2) The judge may rescind or alter or stay the operation of any order of commitment made by him, whether or not it has been acted on. R.S.O. 1960, c. 110, s. 138. Order of commitment

140.—(1) A party having an unsatisfied judgment against a corporation may issue a summons calling upon any officer of the corporation to attend before the judge and submit to examination as to the property and assets of the corporation and its dealings with them, and, if the person summoned fails to attend or to submit to examination, he is liable to be committed to the correctional institution in the county for any period not exceeding forty days. R.S.O. 1960, c. 110, s. 139 (1), *amended*. Examination of officer of company

(2) The summons shall be issued and served as nearly as may be in the same manner as in the case of a summons to a judgment debtor. R.S.O. 1960, c. 110, s. 139 (2). Summons

GARNISHMENT PROCEEDINGS

141. For the purposes of garnishment proceedings under this Act, Interpretation

(*a*) money that is earned or owing, although not yet due or payable, shall be deemed to be "owing or accruing"; and

(*b*) a reference to the amount of the judgment creditor's judgment or the plaintiff's claim, or words of like import, shall be deemed to include the amount of costs that have been incurred. R.S.O. 1960, c. 110, s. 141, *amended*.

142.—(1) After judgment has been recovered, the clerk of the court in which the judgment was recovered or the clerk of the court to which the judgment has been transcripted shall, upon the filing of an affidavit as required by subsection 2, issue a direction Garnishment after judgment

to garnish directing that all debts owing or accruing to the judgment debtor be attached to satisfy the judgment.

Material on application

(2) Upon the making of the application, there shall be filed with the clerk an affidavit stating,

(*a*) the date and amount of the judgment and the amount remaining unsatisfied;

(*b*) that the deponent has reason to believe that the person sought to be named as garnishee,

(i) resides or carries on business in the county where the court is located, and

(ii) is indebted to the judgment debtor;

(*c*) where the judgment creditor intends to effect service of the direction by registered mail, the address where the judgment debtor and garnishee reside or carry on business; and

(*d*) where the judgment creditor seeks to obtain a direction to garnish in respect of wages and without exemption, that the debt was incurred for board or lodging or that the judgment debtor is an unmarried person having no one dependent upon him for support.

Preparation of affidavit and direction

(3) The direction to garnish, which shall be in the prescribed form, and the affidavit used upon the application therefor shall be prepared,

(*a*) where the judgment creditor has a solicitor or agent, by the solicitor or agent; and

(*b*) where the judgment creditor has no solicitor or agent, by the judgment creditor or, if he so requests, by the clerk of the court. R.S.O. 1960, c. 110, s. 142.

Notices upon a direction

143. The following notices shall appear upon every direction to garnish:

A

NOTICE TO GARNISHEE

Within ten days after the mailing to you or personal service upon you of this direction you are required to either,

(*a*) pay to the clerk of the court the amount owing or accruing from you to the judgment debtor or sufficient thereof to satisfy the judgment of the judgment creditor including costs; or

(*b*) file with the clerk of the court a statement signed by you stating,

(i) that at the time of the receipt by you of this direction to garnish there was no money owing or accruing from you to the judgment debtor, and

(ii) where you rely upon a statutory or other defence or set-off, the particulars thereof.

Where an amount less than the amount of the judgment debt is paid to the clerk of the court, you are required to file with the clerk a statement signed by you in explanation thereof.

Upon your default in complying with the requirement above set out, the judgment creditor may apply to the court for judgment against you, the garnishee, for an amount equal to the unpaid portion of his judgment against the judgment debtor and for his costs.

Where the amount sought to be garnished is wages, this notice shall be read subject to *The Wages Act*.

B

NOTICE TO JUDGMENT DEBTOR

At any time within ten days after the mailing to or personal service upon you of this direction you may dispute this direction to garnish or any of the statements therein contained by filing with the clerk of the court a notice setting out the particulars of your dispute.

C

NOTICE TO ALL PARTIES TO THIS PROCEEDING

Any of the parties to this proceeding, that is to say, any judgment creditor, judgment debtor or garnishee, may in writing request the clerk of the court to place it upon the trial list in order that the rights of any such party may be determined.

R.S.O. 1960, c. 110, s. 143.

Service of direction to garnish

144.—(1) The direction to garnish shall be served upon both the judgment debtor and the garnishee as soon as is convenient, and, in any event, not more than fifteen days after its issue.

Method of service

(2) Service may be effected,

(*a*) by personal service; or

(*b*) by registered mail addressed to each or either of them at the address set out in the affidavit referred to in section 142. R.S.O. 1960, c. 110, s. 144.

Effect of service

145. Service upon the garnishee of the direction to garnish has the effect, subject to the rights of other persons, of attaching and binding in his hands all debts then owing or accruing from him to the judgment debtor, and payment by the garnishee into court of the debt so attached to the extent to which the judgment is unsatisfied is to that extent a discharge of the debt. R.S.O. 1960, c. 110, s. 145.

Payment out

146. Subject to any request for a hearing by a judge, money paid into court by a garnishee pursuant to a direction to garnish shall, upon the filing with the clerk of an affidavit proving service upon the judgment debtor of the direction to garnish, be paid out to the judgment creditor, but no such payment to the judgment creditor shall be made until fifteen days after the date of such service. R.S.O. 1960, c. 110, s. 146.

Payment to any but primary creditor void

147. Payment by the garnishee after service on him of the direction to garnish, otherwise than into court, except by leave of the judge, is, to the extent of the judgment creditor's claim and costs, void, and the garnishee is liable to again make payment to the extent of the judgment creditor's claim, unless the judge otherwise orders. R.S.O. 1960, c. 110, s. 147.

Hearing required

148.—(1) Where a party requests the clerk in writing to place the proceeding upon the trial list, the clerk shall place it upon the list for the first court day in respect of which notice as herein required may be given, and at least ten days before such day shall mail notice thereof by registered mail to each of the parties to the proceeding.

Disposition at hearing

(2) Upon the hearing, the judge shall determine the matter in a summary manner and make such order as he considers fit, and, where the garnishee has defaulted under the notice lettered A set out in section 143, he may give judgment in favour of the judgment creditor against the garnishee.

Defences of garnishee

(3) Upon a hearing, in determining any question of liability as between the judgment debtor and the garnishee, the judge shall have regard to any statutory or other defence or set-off that has been set up by the garnishee. R.S.O. 1960, c. 110, s. 148.

Adverse claims

149. Where a person other than the judgment creditor or judgment debtor claims to be entitled to the debt owing or accruing from the garnishee or any part thereof by assignment or otherwise, the judge, after notice to all persons interested, may inquire into and decide upon the claim, and, where there is more than one claim, decide upon the priority in which the respective claims are entitled to rank on the debt as the justice of the case requires. R.S.O. 1960, c. 110, s. 149.

Costs where garnishee unsuccessful

150. Where a direction to garnish has been issued and no moneys are realized thereon, the costs thereof shall not be costs against the judgment debtor, unless the judge, who may give his direction upon an *ex parte* application, otherwise directs. R.S.O. 1960, c. 110, s. 150.

Garnishment before judgment

151.—(1) Where a judgment has not been recovered, a plaintiff in an action in which a debt or money demand summons may be issued may cause to be issued out of the court of the division in which the garnishees, or one of them, if they are joint garnishees, reside or carry on business, a garnishment summons with the particulars of his claim against the defendant with reasonable certainty and detail attached thereto or endorsed thereon.

Summons to be deemed debt or money demand summons

(2) As between the plaintiff and the defendant, the garnishment summons shall be deemed a debt or money demand

summons, and the provisions of this Act applicable to a debt or money demand summons and proceedings thereon apply.

(3) A copy of the garnishment summons and particulars shall be served on the defendant and on the garnishee in the manner provided for the service of a summons in other actions. R.S.O. 1960, c. 110, s. 151. Service of summons

152. A garnishment summons shall be in the same form as a summons to a defendant, but, Form of garnishment summons

(*a*) the name of the garnishee shall appear in the style of cause; and

(*b*) the following notice shall appear thereon:

NOTICE TO GARNISHEE

Within ten days of the service upon you of this summons you are required to either,

(*a*) pay to the clerk of the court the amount owing or accruing from you to the defendant or sufficient thereof to satisfy the claim of the plaintiff including costs; or

(*b*) file with the clerk of the court a statement signed by you stating,

(i) that at the time of the receipt by you of this summons there was no money owing or accruing from you to the defendant, and

(ii) where you rely upon a statutory or other defence or set-off, the particulars thereof.

Where an amount less than the amount of the judgment debt is paid to the clerk of the court, you are required to file with the clerk a statement signed by you in explanation thereof.

Upon your default in complying with the requirements above set out, the plaintiff may apply to the court for judgment against you, the garnishee, for an amount equal to the unpaid portion of any judgment he may recover in this action against the defendant and for his costs.

R.S.O. 1960, c. 110, s. 152.

153. Service upon the garnishee of a garnishment summons has the same effect and consequence as service of a direction to garnish. R.S.O. 1960, c. 110, s. 153. Effect of summons

154.—(1) Where judgment is obtained against the defendant under sections 88, 89 or 90, or is obtained at the trial, or where judgment is not then given, on proof of the service on the defendant of a copy of the garnishment summons and particulars, and of the debt due and owing by the defendant, the judge, on proof of the amount owing or accruing due to the defendant from the garnishee, may give judgment against the garnishee in the prescribed form for the amount so owing or accruing from him or sufficient thereof to satisfy the claim of the plaintiff and costs, which sum the garnishee shall pay into court towards the satisfaction of the claim and costs, and, in default, execution may Judgment against garnishee

issue therefor, if due, or as it becomes due, or at such later period as the judge orders.

Hearing of garnishee

(2) Where the garnishee in a statement signed by him and filed with the clerk of the court sets up a statutory or other defence or set-off, he shall be given notice of a hearing at which he may furnish proof of such defence or set-off before judgment is given against him. R.S.O. 1960, c. 110, s. 154.

Adverse claims

155. Where a person, other than the plaintiff or defendant, claims to be entitled to the debt owing or accruing from the garnishee or any part thereof by assignment or otherwise, the judge, after notice to all persons interested, may inquire into and decide upon the claim, and, where there is more than one claim, decide upon the priority in which the respective claims are entitled to rank on the debt as the justice of the case requires. R.S.O. 1960, c. 110, s. 155.

CONSOLIDATION ORDERS

Application for consolidation order

156.—(1) A judgment debtor against whom more than two small claims court judgments remain unsatisfied in whole or in part may apply to the judge of the court of the division in which he resides for a consolidation order. R.S.O. 1960, c. 110, s. 156 (1); 1961-62, c. 35, s. 5 (1).

Material on application

(2) Upon the application, the judgment debtor shall file his own affidavit setting forth,

(*a*) the names and addresses of the creditors who have obtained judgment against him in a small claims court, the date, amount and other particulars of each judgment, and the amount that he owes to each such judgment creditor;

(*b*) the amount of his income from all sources, naming them;

(*c*) his business or occupation, and the address of his employer;

(*d*) a statement of his family or like obligations and of any other relevant facts. R.S.O. 1960, c. 110, s. 156 (2).

Idem

(3) Notice of the time and place of the hearing of the application shall be given by the judgment debtor to the creditors mentioned in clause *a* of subsection 2 by registered mail or personal service at least eight days before the day fixed for the hearing, and, upon the hearing, the judgment debtor shall file an affidavit setting forth that such creditors have been given such notice.

Disposition of application

(4) Upon the application, the judge may make a consolidation order or dismiss the application. 1961-62, c. 35, s. 5 (2).

(5) Before making a consolidation order the judge shall determine the average weekly income of the judgment debtor for the three-month period immediately before the making of the application, making all proper allowances where the occupation is of a seasonal nature, and shall order the following amounts, calculated to the nearest dollar, to be paid into court under the consolidation order, subject always to any variation that, because of extenuating or other special circumstances, the judge considers proper: Computation of amounts

1. 15 per cent of the average weekly income, where the average weekly income does not exceed $30.
2. 20 per cent of the average weekly income, where the average weekly income exceeds $30 and does not exceed $40.
3. 25 per cent of the average weekly income, where the average weekly income exceeds $40 and does not exceed $50.
4. 30 per cent of the average weekly income, where the average weekly income exceeds $50. R.S.O. 1960, c. 110, s. 156 (4).

(6) Where the amounts ordered to be paid under subsection 5 have been varied because of extenuating or other special circumstances such amounts shall not be less than 10 per cent of the average weekly income of the judgment debtor. 1961-62, c. 35, s. 5 (3). Idem

(7) A consolidation order shall set out, Particulars of order

(*a*) a list of the small claims court judgments outstanding against the judgment debtor, indicating in each case the date, court and amount and the amount still outstanding;

(*b*) the amounts to be paid into court by the judgment debtor under the consolidation order; and

(*c*) the times of such payments. R.S.O. 1960, c. 110, s. 156 (5).

157.—(1) The original consolidation order shall be filed with the clerk of the court in which it was made and a copy thereof, certified by such clerk, may be filed by the judgment debtor in any other small claims court. Filing order and copies

(2) Upon the filing of the original consolidation order, the clerk shall open a consolidation account in the name of the judgment debtor and shall credit thereto all payments made under the consolidation order. R.S.O. 1960, c. 110, s. 157. Consolidation account

Objection by creditor

158.—(1) Where a judgment creditor objects to the amount directed to be paid or to any other judgment creditor being included in the consolidation order, he may apply to the judge for an appointment to determine the matter.

Judge's determination

(2) Notice of the appointment shall be sent by registered mail to such persons as the judge directs, and, upon the appointment, the judge shall deal with the matter in a summary manner, and his determination is final. R.S.O. 1960, c. 110, s. 158.

Debt incurred before order

159.—(1) Where a judgment is obtained against the judgment debtor after the date of the consolidation order for a debt incurred before the date of the consolidation order, the judgment creditor may deliver to the clerk of the court in charge of the consolidation order a notice of his judgment, and his name shall forthwith be added to the consolidation order and he shall thereafter share in the distribution under the consolidation order.

Judgment after order

(2) Where a judgment is obtained against the judgment debtor after the date of the consolidation order for a debt incurred after the date of the consolidation order, the consolidation order thereupon terminates.

Further order

(3) Where the judgment debtor applies for a further consolidation order, the judge shall examine the nature of the further debt or debts incurred and may make such order. R.S.O. 1960, c. 110, s. 159.

Stay of proceedings

160. A judgment debtor in respect of whom a consolidation order has been made may, either before default has occurred or not later than the tenth day after default has occurred, apply to the judge for a stay of proceedings, and, upon notice of the hearing being sent by registered mail to all judgment creditors, or such of them as the judge directs, the judge shall hear the application and may by order grant such stay of proceedings as he considers fit or he may dismiss the application. R.S.O. 1960, c. 110, s. 160.

Effect of order

161.—(1) Subject to subsection 2, no garnishment summons and no proceedings subsequent to judgment, except an execution against lands, shall be taken or continued against the judgment debtor named therein in a small claims court in which a consolidation order or a certified copy thereof is filed.

Default

(2) Where a judgment debtor is in default for a period of twenty days under a consolidation order, the consolidation order is thereupon terminated, subject to any order under section 160 that may have been made before such date, and any judgment creditor named in the consolidation order may obtain from the clerk of the court in which the consolidation order was made a certificate of termination for the purpose of filing it in any court in which a copy of the consolidation order is filed. R.S.O. 1960, c. 110, s. 161 (1, 2).

(3) Where a consolidation order has been terminated under subsection 2, the clerk of the court shall notify, by mail, the judgment creditors named in the order of its termination. 1961-62, c. 35, s. 6 (1). Notice of termination

(4) Where a consolidation order has terminated under subsection 2, no further consolidation order shall be made in respect of such judgment debtor for a period of one year from the date of such termination. R.S.O. 1960, c. 110, s. 161 (3); 1961-62, c. 35, s. 6 (2). Stay for 1 year

162. Notwithstanding subsection 1 of section 161, where a judgment is transferred under subsection 3 of section 130 and a consolidation order has been made against the judgment debtor, the clerk of the court shall add the judgment to the consolidation order but only to the extent of $400 where the court is in a county and $800 where the court is in a provisional judicial district. R.S.O. 1960, c. 110, s. 162; 1962-63, c. 38, s. 1. Addition of Supreme and county court judgments to consolidation orders

163.—(1) All moneys paid into a consolidation account belong to the judgment creditors named in the consolidation order who shall share *pro rata* in the distribution of the moneys. R.S.O. 1960, c. 110, s. 163 (1). Property in moneys

(2) The clerk shall distribute the moneys paid into the consolidation account on account of the judgments at least once every six months, and at the time of distribution shall prepare a distribution sheet showing the total amount paid and the distribution thereof. R.S.O. 1960, c. 110, s. 163 (2); 1961-62, c. 35, s. 7; 1965, c. 32, s. 3. Distribution

(3) The distribution shall be on a *pro rata* basis according to the amount of each of the judgments filed with the clerk, or as nearly so as is practicable to the nearest dollar. Basis of distribution

(4) The clerk is entitled to a fee of 10 per cent of the amount paid in of which amount 5 per cent shall be charged to the judgment creditors and 5 per cent to the judgment debtor. Fees of clerk

(5) The amount of the postage paid shall be deducted from the amounts paid to the judgment creditors. R.S.O. 1960, c. 110, s. 163 (3-5). Postage to be deducted

ABSCONDING DEBTORS

164. Where a person indebted in a sum not less than $4, either for debt or damages arising upon a contract, and recoverable in or upon a judgment of a small claims court, Warrant for attachment

(*a*) absconds from Ontario, leaving personal property liable to seizure under execution for debt in any county; or

(*b*) attempts to remove such personal property out of Ontario or from one county to another therein with intent to defraud; or

(*c*) keeps himself concealed to avoid service of process,

the clerk of any small claims court, upon the application of the creditor and upon his filing an affidavit in the prescribed form made by him, his agent or servant, shall issue a warrant in the prescribed form, directed to the bailiff of the court from which it issued, or to a constable of the county, commanding him to attach, seize, take and safely keep all the personal estate and effects of such person in the county, liable to seizure under execution for debt, or a sufficient part thereof to secure the sum mentioned in the warrant with costs, and to return the warrant forthwith to the court. R.S.O. 1960, c. 110, s. 164.

When judge or justice of the peace may issue attachments, etc.

165. The affidavit mentioned in section 164 may be taken before a judge or a justice of the peace, and, upon the filing thereof with him, he may issue a warrant under his hand and seal in the form mentioned in section 164, and he shall forthwith transmit the affidavit to the clerk of the court in whose division it was taken, to be by him filed. R.S.O. 1960, c. 110, s. 165.

Bailiff or constable to seize and make inventory

166. Upon receipt of a warrant by the bailiff or constable and upon being paid his lawful fees, including the fees for appraisement, he shall forthwith execute the warrant and make a true inventory of all the estate and effects that he seizes and takes by virtue thereof, and shall, within twenty-four hours after seizure, call to his aid two freeholders, who, being first sworn by him to appraise the estate and effects seized, shall then appraise them, and the bailiff or constable shall forthwith return the inventory attached to the appraisement to the clerk. R.S.O. 1960, c. 110, s. 166.

Proceedings may be continued in same court

167. In an action commenced by attachment, the proceedings may be conducted to judgment and execution in the court of the division in which the warrant issued. R.S.O. 1960, c. 110, s. 167.

Proceedings commenced before attachment

168. Where proceedings have been commenced before the issue of an attachment, they may be continued to judgment and execution in the court in which the proceedings were commenced. R.S.O. 1960, c. 110, s. 168.

Property attached may be sold under execution

169. The property attached upon a warrant of attachment is liable to seizure and sale under the execution to be issued upon the judgment, and, if the property was perishable and has been sold, the proceeds thereof shall be applied in satisfaction of the judgment. R.S.O. 1960, c. 110, s. 169.

Plaintiff not to divide cause of action

170. A plaintiff shall not divide a cause of action into two or more actions for the purpose of bringing it within the provisions of sections 164 to 169, but a plaintiff having a cause of action for

which, but for the amount of the claim, an attachment might be issued, may abandon the excess, and the judgment is a full discharge of all demands in respect of the cause of action, and the entry of judgment shall be made accordingly. R.S.O. 1960, c. 110, s. 170.

If several attachments issued R.S.O. 1970, c. 2

171. Subject to *The Absconding Debtors Act*, where there are several attachments against a party, the proceeds of the property attached shall not be paid over to the attaching creditors according to priority, but shall be rateably distributed among such of them as obtain judgment against the debtor in proportion to the amounts actually due upon their judgments, and no distribution shall take place until, in the opinion of the judge, reasonable time has been allowed to the creditors to proceed to judgment. R.S.O. 1960, c. 110, s. 171.

If goods insufficient to satisfy claims of all attaching creditors

172. Where the proceeds of the property are insufficient to satisfy the claims of all the attaching creditors, a creditor shall not be allowed to share, unless he sued out his attachment and gave notice thereof to the clerk of the court out of which the first attachment issued or into which it was returnable within one month next after the issue of the first attachment. R.S.O. 1960, c. 110, s. 172.

Goods seized by constable to be delivered to bailiff

173.—(1) Where property is attached under sections 164 to 172 by a constable, it shall be handed over forthwith to the bailiff of the court out of which the warrant of attachment issued or into which it was made returnable.

Custody of goods seized under attachment

(2) Property attached by a bailiff under sections 164 to 172 and the property delivered to him under subsection 1 shall remain in the custody of the bailiff, and he shall keep it until it is disposed of according to law. R.S.O. 1960, c. 110, s. 173.

On what terms goods attached may be restored

174.—(1) Where a person against whom an attachment has issued, or any person on his behalf, executes and files in the court to which the attachment, or first attachment, if there are more than one, has been returned, or is returnable, a bond with good and sufficient sureties, to be approved by the judge or clerk, binding the obligors, jointly and severally, to the clerk, in double the appraised value of the property attached, with a condition that the debtor (naming him) will, whenever thereunto required by order of the judge, pay into court a sum sufficient to satisfy the claims of all creditors who may be entitled to share in the proceeds of the property or the value of the property attached, or will produce the property to satisfy the judgments, the clerk may supersede the attachment, and the property attached shall be restored.

Sale of goods if the debtor does not appear and give security

(2) Subject to section 171, if, within one month after the property has been attached, the person against whom the attachment has issued, or some person on his behalf, does not appear and give such bond, execution may issue as soon as judgment has been recovered, and the property attached, or so much thereof as is necessary to satisfy the judgment and costs, may be sold for the satisfaction thereof, or, if the property has been previously sold as perishable, so much of the proceeds thereof as are necessary may be applied to satisfy the judgment and costs. R.S.O. 1960, c. 110, s. 174.

Proceedings against debtors where process not previously served

175.—(1) Where a summons has not been served before the issue of a warrant of attachment, it may be served personally or by leaving a copy at the last place of residence or business of the defendant with any grown person residing there, or by leaving the copy at such place if no grown person is there found.

Costs

(2) If it appears to the judge at the trial that the creditor who sued out an attachment had not reasonable or probable cause for taking the proceedings, the judge shall order that no costs be allowed to the creditor. R.S.O. 1960, c. 110, s. 175.

Perishable goods, how disposed of R.S.O. 1970, c. 2

176. Subject to *The Absconding Debtors Act*, where perishable property has been attached, the bailiff who has the custody thereof, it having been first appraised, may, at the request of the attaching creditor, expose and sell it at public auction to the highest bidder, giving at least eight days notice, at the office of the clerk and at two other public places in his division, of the time and place of sale, if the property attached will admit of being so long kept, otherwise he may sell it at his discretion. R.S.O. 1960, c. 110, s. 176.

Creditors may be required to indemnify the defendant

177.—(1) It is not compulsory upon the bailiff or constable to attach, or upon the bailiff to sell, perishable property until the attaching creditor has given a bond to the defendant, with good and sufficient sureties to the satisfaction of the bailiff, in double the amount of the appraised value of the property, conditioned that the attaching creditor will repay the value thereof, together with all costs and damages incurred in consequence of the attachment and sale, in case judgment is not obtained by him, and the bond shall be filed with the clerk.

Application of proceeds of sale

(2) The money made shall be paid over by the bailiff to the clerk, to be dealt with in the manner hereinbefore provided. R.S.O. 1960, c. 110, s. 177.

Enforcing security given under Act

178.—(1) A bond given in the course of any proceeding under this Act may be sued on in any small claims court of the county in which it was executed, notwithstanding that the penalty in the bond exceeds the sum of $400. R.S.O. 1960, c. 110, s. 178 (1), *amended*.

(2) The bond shall be delivered to any person entitled to it, upon the order of the judge, to be enforced or cancelled as the case requires. R.S.O. 1960, c. 110, s. 178 (2). Delivery of bond to party entitled

PARTNERSHIPS AND SPECIAL NAMES

179.—(1) In the case of a debt or demand against two or more persons, partners in trade or otherwise jointly liable, who reside in different divisions, or of whom one or more cannot be found, one or more of such persons may be sued or served with process, and judgment may be obtained and execution issued against him or them, notwithstanding that others jointly liable have been sued or served, without prejudice to the right of the person against whom execution issues to demand contribution from any other person jointly liable with him. One or more of persons jointly liable may be sued

(2) Where a judgment has been obtained against one or more of several partners under subsection 1 and the judge certifies that the demand proved was a partnership transaction, the bailiff may, under the execution, seize and sell the property of the firm as well as that of any defendant who has been served. Bailiff may seize property of firm on certificate of judge

(3) Two or more persons claiming or being liable as co-partners may sue or be sued in the name of the firm of which such persons were co-partners at the time the cause of action accrued. Partners sued in name of firm

(4) Where partners are sued in the name of the firm, the summons may be served on one or more of them or at the principal place in Ontario of the business of the partnership or upon any person having control of the partnership business there, and, subject to subsections 6 and 7, such service shall be deemed good service upon the firm, and the affidavit of the service of the summons shall state the name of the person served. Service on partners

(5) Any party may, at any time before or after judgment, apply for an order directing a statement of the names and addresses of the persons who are co-partners in any firm that is a party to the action by the firm name, to be furnished in such manner as the judge may direct. Order to furnish names and addresses

(6) In the case of a partnership that to the knowledge of the plaintiff has been dissolved before action, the summons shall be served upon every person in Ontario sought to be made liable. When partnership dissolved

(7) Where a summons is issued against a firm and is served as directed by this section, every person upon whom it is served shall be informed by notice given at the time of service whether he is served as a partner or as a person having control or management of the partnership business or in both characters, and, in default of such notice, the person served shall be deemed to be served as a partner. Notice of capacity in which person served

Attachment of debts due by firm

(8) Debts owing from a firm carrying on business in Ontario may be attached although one or more members of the firm may be resident out of Ontario, if some person having the control or management of the partnership business or a member of the firm in Ontario is served with the attaching order. R.S.O. 1960, c. 110, s. 182.

Execution against partners

180.—(1) Where a judgment is against a firm, execution may, subject to section 181, issue against the property of,

(*a*) the partnership;

(*b*) any person who has admitted in the notice of dispute or defence filed that he is a partner, or who has been adjudged a partner;

(*c*) any person who has been individually served as a partner with a copy of the summons and who has not filed a notice of dispute or defence.

Leave to issue execution against other members

(2) If the party who has obtained a judgment claims to be entitled to issue execution against any other person as being a member of the firm, he may apply for leave to do so, and the judge may give such leave if the liability is not disputed, or, if disputed, after the liability has been determined in such manner as he may direct. R.S.O. 1960, c. 110, s. 183.

Effect of judgment against firm

181. Except as against the property of the partnership, a judgment against a firm does not render liable, release, or otherwise affect any member thereof who was out of Ontario when the summons was issued and who has not entered a defence to the action, unless he has been made a party under section 85 or has been served in Ontario after the summons was issued. R.S.O. 1960, c. 110, s. 184.

Persons carrying on business in Ontario under another name

R.S.O. 1970, c. 340

182.—(1) Subject to *The Partnerships Registration Act*, a person, whether or not a British subject and whether residing in or out of Ontario, carrying on business in Ontario under a name or style other than his own name may sue and be sued in such name or style.

Leave not required

(2) Leave is not necessary to issue the summons.

Service of summons

(3) The summons may be served upon the person so carrying on business if he is in Ontario, or at his place of business in Ontario, or, if there are several such places, at the place in or nearest to the county in which the cause of action arose, upon any person having the control or management of the business there, and such service is equivalent to personal service on the person so sued.

Notice of character in which person served

(4) The person upon whom the summons is served shall be informed by notice given at the time of service whether he is served as the person carrying on the business or as the person

having the control or management of it or in both characters, and in default of such notice he shall be deemed to be served as the person carrying on the business.

Procuring name and address of person carrying on business

(5) A party may, at any time before or after judgment, apply for an order directing a statement of the name and address of the person who is, and of the person who at the time of the accruing of the cause of action was, carrying on business under such name or style, to be furnished in such manner as the judge may direct.

Person served to appear in his own name

(6) The person so sued shall enter a dispute in his own name, but all subsequent proceedings shall continue in such name or style.

Defence under protest

(7) A person served as the person carrying on the business may enter a defence under protest, denying that he is the person so carrying on the business, but such defence does not preclude the plaintiff from otherwise serving the person sued or from obtaining judgment in default of defence in the ordinary form by the person so sued.

When person served is not carrying on the business

(8) Where a summons is served under subsection 3 on a person having the control or management of but not carrying on the business, a dispute by him is not necessary.

Enforcement of judgment, what property exigible

(9) A judgment or order in the action may be enforced by execution against,

(*a*) the property of the person so sued, used or employed in or in connection with the business; and

(*b*) the property in Ontario of the person so sued, if he has entered a defence in the action or has been adjudged to be the person carrying on the business or has been personally served with the summons in Ontario and has failed to enter a defence.

Issuing execution against person alleged to be carrying on the business

(10) If the person so sued has not entered a dispute or has not been personally served or has not been adjudged to be the person carrying on the business, the plaintiff may apply for leave to issue execution against the person in Ontario whom the plaintiff alleges to be the person carrying on the business, and the judge may give such leave if the liability is not disputed, or, if disputed, after the liability has been determined, in such manner as the judge may direct. R.S.O. 1960, c. 110, s. 185.

GENERAL

Duties of Inspector

183.—(1) The Inspector shall,

(*a*) make a personal inspection of every small claims court and of the books and papers thereof;

(*b*) see that the proper books are provided, that they are in good order and condition, that the proper entries and

records are made therein in a correct manner, at a suitable time and in proper form and order, and that the papers and documents are properly classified and preserved;

(c) see that the duties of the officers of the courts are efficiently performed and that the office is at all times duly attended by the clerk;

(d) see that lawful fees only are taxed or allowed as costs;

(e) see that proper security is furnished and maintained on behalf of every clerk and bailiff; and

(f) report upon all such matters to the Lieutenant Governor.

Delegation of authority by Inspector

(2) The Inspector, with the approval of the Lieutenant Governor in Council, may delegate to any clerk or officer in his office any power or duty conferred or imposed upon the Inspector under this Act, and for such purpose every such person shall have and may exercise all the powers of the Inspector. R.S.O. 1960, c. 110, s. 199.

Destruction of documents

184. Where books, documents or papers have been preserved in a small claims court for so long that it appears they need not be preserved any longer, the judge may make an order authorizing the Inspector to cause their destruction. R.S.O. 1960, c. 110, s. 200.

Power of Inspector in making inquiry into conduct of officers

185. Where the Inspector considers it expedient to institute an inquiry into the conduct of a clerk or bailiff, he may require him and any other person to give evidence under oath, and for that purpose he has the same power as any court has in civil cases to summon such officer or other person to attend as a witness, to enforce his attendance and to compel him to produce books and documents, and to give evidence. R.S.O. 1960, c. 110, s. 201.

Contempt of court

186. Every person who wilfully insults the judge or any officer of a small claims court during his sitting or attendance in court, or interrupts the proceedings of the court, or creates a disturbance in the court-room or within hearing of the court, is guilty of an offence and any bailiff or officer of the court may, by direction of the judge, take the offender into custody and bring him before the judge, and the judge may impose upon him a fine of not more than $20, and in default of immediate payment may, by warrant under his hand and seal, commit the offender to a correctional institution in the county for a period of not more than one month, unless the fine and costs with the expense attending the commitment are sooner paid. R.S.O. 1960, c. 110, s. 202, *amended*.

187.—(1) Every person who interferes with a bailiff or officer or his deputy or assistant while in the execution of his duty, or makes or attempts to rescue any property seized or attached under process of the court, is guilty of an offence and liable to a penalty of not more than $20, to be recovered by order of the court or on summary conviction before a provincial judge, and is also liable to be imprisoned, by order of the court or provincial judge, for any term of not more than three months. Resisting officers

(2) The bailiff or officer, or any peace officer, may take the offender into custody, with or without warrant, and bring him before the court or provincial judge. R.S.O. 1960, c. 110, s. 203, *amended*. Arrest of offenders

188. A fine imposed by a judge under this Act may be enforced by his order in like manner as a judgment. R.S.O. 1960, c. 110, s. 204. Enforcing payment of fines

189. A levy or distress by virtue of this Act shall not be deemed unlawful, or the person making it be deemed a trespasser, on account of any defect or want of form in any proceeding relating thereto, nor shall the person levying or distraining be deemed a trespasser from the beginning, on account of any irregularity afterwards committed by him, but the person aggrieved by the irregularity may recover full satisfaction for the special damage sustained by him. R.S.O. 1960, c. 110, s. 205. Distress not to be deemed unlawful, etc., by reason of defect in proceedings

190.—(1) In cases not expressly provided for by this Act or by the rules, the judge may, in his discretion, adopt and apply the general principles of practice in the Supreme Court to actions and proceedings in the small claims courts. Where practice of the Supreme Court to apply

(2) Nothing in this Act authorizes the taxation or allowance of costs to any officer of the court, other than those provided for by this Act, or in the tariff of fees. R.S.O. 1960, c. 110, s. 206. Limitations as to costs

191. No proceedings shall be quashed or vacated for any matter of form. R.S.O. 1960, c. 110, s. 207. Defects in form

192. Unless otherwise provided, every notice required by this Act shall be in writing. R.S.O. 1960, c. 110, s. 208. Notices to be in writing

193.—(1) Affidavits may be sworn before a clerk or deputy clerk, or before a justice of the peace, notary public or commissioner for taking affidavits. Before whom affidavits may be sworn

(2) An affidavit, sworn before the agent of the party on whose behalf it was made, or before the clerk or partner of such agent, shall not be used. R.S.O. 1960, c. 110, s. 209. Affidavits sworn before agents not to be used

194. Where a change in the date of a hearing or other proceeding is necessary because of failure to effect service or for Changing date in process

any other reason, the clerk may change the date or dates appearing in a summons, judgment summons, subpoena or other notice or process. R.S.O. 1960, c. 110, s. 210.

Rules and regulations

195.—(1) The Lieutenant Governor in Council may make rules and regulations,

(*a*) prescribing the small claims courts that shall be maintained, the territorial limits of the divisions and the place within each division where the court office shall be located;

(*b*) prescribing fees payable to the Crown and to clerks, bailiffs, appraisers, witnesses and for any other services performed under this Act;

(*c*) regulating the sittings of the courts and providing for fixing the times and places of such sittings;

(*d*) prescribing the duties of clerks and bailiffs and requiring clerks to furnish to judges information regarding sittings of the court;

(*e*) prescribing the returns to be made and the information to be furnished by clerks and bailiffs;

(*f*) prescribing forms and providing for their use;

(*g*) providing for the service of summonses and other process issued out of small claims courts by prepaid mail or otherwise and prescribing the manner of proving service and such other matters as may be necessary or incidental thereto;

(*h*) providing for the continuation of courts where a union of counties is dissolved or a county is separated from a union of counties and for the continuation or transfer of actions and judgments therein;

(*i*) prescribing and governing the security to be furnished by clerks and bailiffs for the due performance of their duties and, in connection therewith, providing for the Inspector to enter into agreements with any company authorized to carry on the business of fidelity insurance in Ontario;

(*j*) regulating any matter relating to the practice and procedure of the courts, or to the duties of the officers thereof, or to the costs of proceedings therein;

(*k*) respecting every matter deemed expedient for better attaining the ends of justice, advancing the remedies of suitors and carrying into effect the provisions of this Act and of all other Acts respecting small claims courts.

Territorial limits

(2) In prescribing the territorial limits of a division, the Lieutenant Governor in Council may, where in his opinion the circumstances of the case so warrant,

(*a*) include any area within the territorial limits of more than one division; and

(*b*) include within the territorial limits of a small claims court, an area in an adjoining county. R.S.O. 1960, c. 110, s. 211.

PART II

Applicable Only to Districts

Increased jurisdiction in districts

196.—(1) In any of the types of action in which a small claims court is given jurisdiction by section 54, the small claims courts in the provisional judicial districts have jurisdiction where the amount claimed does not exceed $800.

Rules of Practice S.C.O. to apply

(2) In every such action in which the amount claimed exceeds $400, the rules relating to pleadings as from time to time contained in the Rules of Practice and Procedure of the Supreme Court apply *mutatis mutandis*, and a judge may in his absolute discretion make such order or direction as to production and discovery, including costs, as he sees fit.

Counsel

(3) A person, other than a barrister or solicitor, may not appear as agent for a party at the trial or hearing of an action brought under this section in which the amount claimed exceeds $400. 1961-62, c. 35, s. 8.

Appeal

197.—(1) An appeal lies to the Court of Appeal from a judgment under section 196.

Application of Part I

(2) The provisions of Part I as to appeals apply to an appeal under this section. R.S.O. 1960, c. 110, s. 215.

Amendment to subs. 1 R.S.O. 1970, c. 228

(3) On the day on which section 17 of *The Judicature Act* is proclaimed in force, subsection 1 is amended by striking out "Court of Appeal" in the first line and inserting in lieu thereof "Supreme Court". 1970, c. 120, ss. 13, 15 (4).

Service on application for new trial

198. Upon an application for a new trial in an action wherein either party may appeal, personal service may be effected, or all papers requiring service may be delivered to the clerk of the court where the action was tried, or left at his office for the person entitled thereto, and the clerk shall forthwith send by registered mail all such papers to the person entitled to them or to his agent. R.S.O. 1960, c. 110, s. 216.

CHAPTER 440

The Snow Roads and Fences Act

PART I

SNOW ROADS

Interpretation

1. In this Act, "vehicle" means a vehicle drawn by one or more horses or other animals or propelled by any motive power. R.S.O. 1960, c. 376, s. 1.

Powers of county council

2. The council of a county may provide, by by-law, for the making of a double track during the season of sleighing in each and every year upon such leading highways within the county, whether or not county roads, as the council considers advisable. R.S.O. 1960, c. 376, s. 2.

Nature of tracks

3. Where a county council has passed such a by-law, the double track shall be so made that one vehicle may pass another without being obliged to turn out when meeting. R.S.O. 1960, c. 376, s. 3.

Right of road

4. Every vehicle shall travel in the right-hand track, and any person driving or propelling his vehicle in the wrong track shall leave it when he meets a vehicle entitled to use such track. R.S.O. 1960, c. 376, s. 4.

Duties and powers of pathmasters or roadmasters

5.—(1) A county council may also provide by by-law that pathmasters appointed by township councils shall cause the highways on which double tracks are to be made to be kept open for travel within their respective municipalities, or, if there are no such pathmasters available, may appoint roadmasters to perform that duty.

Calling out persons liable to perform statute labour

(2) Such pathmasters or roadmasters have power to call out persons liable to perform statute labour to assist in keeping open such highways within their respective municipalities, and may give to the persons employed in so doing certificates of having performed statute labour to the amount of the days work done, and such work shall be allowed for in the next season's statute labour.

Application of commutation of statute labour

(3) The county council may also provide for the application by the township councils of so much of the commutation of statute labour fund as may be necessary for the keeping open of such highways within their respective municipalities. R.S.O. 1960, c. 376, s. 5.

County acting on default by township

6. If a township council neglects or refuses to keep such highways open for travel as provided by section 5, the county council may do so, and may impose upon the township so in default a rate sufficient for that purpose, and the rate shall be levied and collected in the manner provided by *The Municipal Act* for the collection of county rates. R.S.O. 1960, c. 376, s. 6.

R.S.O. 1970, c. 284

Offence for persons refusing to work

7. Any person liable to perform statute labour who refuses or neglects to turn out and work under any pathmaster or roadmaster who calls him out for that purpose, under the authority of this Act, is guilty of an offence and on summary conviction is liable to a fine of not less than $1 and not more than $20. R.S.O. 1960, c. 376, s. 7.

Offence for refusing to turn out of wrong track

8. Any person travelling with his vehicle in the wrong track and refusing or neglecting to leave the track when met by a person who is rightfully travelling therein with his vehicle is guilty of an offence and on summary conviction is liable to a fine of not less than $1 and not more than $20. R.S.O. 1960, c. 376, s. 8.

How Act enforceable in townships in districts

9. All the rights and powers conferred by this Act upon councils of counties may be exercised by the councils of townships in districts without county organization. R.S.O. 1960, c. 376, s. 9.

PART II

SNOW FENCES

Powers of councils to require removal of fences

10.—(1) The council of any municipality may pass by-laws requiring the owners or occupants of land bordering upon a public highway to take down, alter or remove any fence that causes an accumulation of snow or drift so as to impede or obstruct travel.

Making compensation therefor

(2) The council shall make such compensation to the owners or occupants for the taking down, alteration or removal of the fence and for the construction in lieu thereof of some other description of fence, approved of by the council, as may be mutually agreed upon, and in default of agreement the compensation shall be determined by arbitration, and three fence-viewers appointed by the council shall be the arbitrators. R.S.O. 1960, c. 376, s. 10.

Power in case of neglect or refusal by owner or occupant

11.—(1) If the owner or occupant refuses or neglects to take down, alter or remove the fence as required by the council, the council, after the expiration of two months from the time the compensation has been agreed upon or determined by arbitration, may take down, alter or remove the fence, and may construct the fence that has been approved of by the council, and the amount of all costs and charges thereby incurred by the council, over and above the amount of compensation, may be recovered from the

owner or occupant by action in any small claims court having jurisdiction in the locality, and the amount of the judgment, if not sooner paid, shall be placed by the clerk of the municipality upon the collector's roll against the land upon or along the boundaries of which the fence is situate, and shall be collected as other taxes. R.S.O. 1960, c.376, s. 11 (1), *amended*.

Right of occupant to deduct amount paid from rent

(2) Where an occupant, other than the owner, is required to pay such sum, or any part thereof, he may deduct it, and any costs paid by him, from the rent payable by him, or may otherwise recover it unless he has agreed with the landlord to pay it.

Duties of arbitrators

(3) The arbitrators shall examine the premises and shall, if required, hear evidence.

Fees

(4) The arbitrators are entitled to $2 a day, which shall be paid by the corporation of the municipality if the amount of the award exceeds the amount offered by the corporation, otherwise by the owner or occupant.

Appeal

(5) The award shall be filed in the office of the clerk of the municipality, and an appeal lies therefrom to the judge of the county or district court of the county or district.

R.S.O. 1970, c. 248 to apply

(6) The provisions of *The Line Fences Act mutatis mutandis* apply to the appeal. R.S.O. 1960, c. 376, s. 11 (2-5).

Power to enter on lands

12.—(1) Every such council may, on or after the 15th day of November and before the 31st day of March following, enter into and upon any lands of Her Majesty, or of any corporation or person, situate within the municipality and lying along any public highway in or adjoining any such municipality, and may erect and maintain snow fences thereon, subject to the payment of such damages, if any, as may be suffered by the owner or occupant of the land so entered upon, the amount thereof to be ascertained, if not mutually agreed upon, by arbitration as provided in section 10.

Removal

(2) The snow fences so erected shall be removed on or before the 1st day of April following.

Extension of time for maintenance and removal

(3) When weather conditions do not permit the removal of snow fences on or before the 1st day of April, the council may by by-law extend the time during which snow fences may be maintained and the date by which they shall be removed to a date fixed by the by-law.

Offence

(4) Any person who hinders or interferes with the erection of snow fences under the provisions of this Act, or who takes down, removes or otherwise interferes with snow fences that have been erected hereunder is guilty of an offence and on summary conviction is liable to a fine of not less than $1 and not more than $50. R.S.O. 1960, c. 376, s. 12.

CHAPTER 441

The Solicitors Act

UNAUTHORIZED PRACTICE

Penalty on persons practising without being admitted as solicitors

1. If a person, unless himself a party to the proceeding, commences, prosecutes or defends in his own name, or that of any other person, any action or proceeding without having been admitted and enrolled as a solicitor, he is incapable of recovering any fee, reward or disbursements on account thereof, and is guilty of a contempt of the court in which such proceeding was commenced, carried on or defended, and is punishable accordingly. R.S.O. 1960, c. 378, s. 7; 1970, c. 20, s. 2.

SOLICITOR'S COSTS

Solicitors to deliver their bill one month before bringing action for costs

2.—(1) No action shall be brought for the recovery of fees, charges or disbursements for business done by a solicitor as such until one month after a bill thereof, subscribed with the proper hand of the solicitor, his executor, administrator or assignee or, in the case of a partnership, by one of the partners, either with his own name, or with the name of the partnership, has been delivered to the person to be charged therewith, or sent by post to, or left for him at his office or place of abode, or has been enclosed in or accompanied by a letter subscribed in like manner, referring to such bill.

Not necessary in first instance to prove contents of bill delivered

(2) In proving compliance with this Act it is not necessary in the first instance to prove the contents of the bill delivered, sent or left, but it is sufficient to prove that a bill of fees, charges or disbursements subscribed as required by subsection 1, or enclosed in or accompanied by such letter, was so delivered, sent or left, but the other party may show that the bill so delivered, sent or left, was not such a bill as constituted a compliance with this Act.

Charges in lump sum

(3) A solicitor's bill of fees, charges or disbursements is sufficient in form if it contains a reasonable statement or description of the services rendered with a lump sum charge therefor together with a detailed statement of disbursements, and in any action upon or taxation of such a bill if it is deemed proper further details of the services rendered may be ordered. R.S.O. 1960, c. 378, s. 31.

Order for taxation on *praecipe*

3. Where the retainer of the solicitor is not disputed and there are no special circumstances, an order may be obtained on *praecipe* from the proper officer in the county in which the solicitor resides,

(*a*) by the client, for the delivery and taxation of the solicitor's bill;

(*b*) by the client, for the taxation of a bill already delivered, within one month from its delivery;

(*c*) by the solicitor, for the taxation of a bill already delivered, at any time after the expiration of one month from its delivery, if no order for its taxation has been previously made. R.S.O. 1960, c. 378, s. 32.

No reference on application of party chargeable after verdict or after 12 months from delivery

4.—(1) No such reference shall be directed upon an application made by the party chargeable with such bill after a verdict or judgment has been obtained, or after twelve months from the time such bill was delivered, sent or left as aforesaid, except under special circumstances to be proved to the satisfaction of the court or judge to whom the application for the reference is made.

Directions as to costs

(2) Where the reference is made under subsection 1, the court or judge, in making it, may give any special directions relative to its costs. R.S.O. 1960, c. 378, s. 33.

When officer may tax bill *ex parte*

5. In case either party to a reference, having due notice, refuses or neglects to attend the taxation, the officer to whom the reference is made may tax the bill *ex parte*. R.S.O. 1960, c. 378, s. 34.

Delivery of bill and reference to taxation

6.—(1) When a client or other person obtains an order for the delivery and taxation of a solicitor's bill of fees, charges and disbursements, or a copy thereof, the bill shall be delivered within fourteen days from the service of the order.

Credits, debits, etc., on reference

(2) The bill delivered shall stand referred to the proper officer for taxation, and on the reference the solicitor shall give credit for, and an account shall be taken of, all sums of money by him received from or on account of the client, and the solicitor shall refund what, if anything, he may on such taxation appear to have been overpaid.

Costs on reference

(3) The costs of the reference are, unless otherwise directed, in the discretion of the officer, subject to appeal, and shall be taxed by him when and as allowed.

No action *pro tem*

(4) The solicitor shall not commence or prosecute any action in respect of the matters referred pending the reference without leave of the court or a judge.

Amount certified

(5) The amount certified to be due shall be paid forthwith after confirmation of the certificate by filing, as in the case of a master's report, by the party liable to pay the same.

Client's papers

(6) Upon payment by the client or other person of what, if anything, appears to be due to the solicitor, or if nothing is found to be due to the solicitor, the solicitor, if required, shall deliver to

the client or other person, or as he directs, all deeds, books, papers and writings in the solicitor's possession, custody or power belonging to the client.

(7) The order shall be read as if it contained the above particulars, and shall not set forth the same, but may contain any variation therefrom and any other directions that the court or judge sees fit to make. Contents of order

(8) An order for reference of a solicitor's bill for taxation shall be presumed to contain subsections 2 to 6 whether obtained on *praecipe* or otherwise, and by the solicitor, client or other person liable to pay the bill. What order presumed to contain

(9) The reference for taxation shall, unless otherwise ordered, be to the proper taxing officer for the county in which the solicitor resides. R.S.O. 1960, c. 378, s. 35. Reference to be to local taxing officer

7. A judge of the Supreme Court or of a county or district court, on proof to his satisfaction that there is probable cause for believing that the party chargeable is about to depart from Ontario, may authorize a solicitor to commence an action for the recovery of his fees, charges or disbursements against the party chargeable therewith, although one month has not expired since the delivery of the bill. R.S.O. 1960, c. 378, s. 36. When actions for costs within the month may be allowed

8.—(1) Where a person, not being chargeable as the principal party, is liable to pay or has paid a bill either to the solicitor, his assignee, or personal representative, or to the principal party entitled thereto, the person so liable to pay or paying, his assignee or personal representative, may apply to the court for an order referring to taxation as the party chargeable therewith might himself have done, and the same proceedings shall be had thereupon as if the application had been made by the party so chargeable. Taxation where a party not being the principal, pays a bill of costs

(2) If such application is made where, under the provisions hereinbefore contained, a reference is not authorized to be made except under special circumstances, the court may take into consideration any additional special circumstances applicable to the person making it, although such circumstances might not be applicable to the party chargeable with the bill if he was the party making the application. What special circumstances may be considered in such case

(3) For the purpose of such reference, the court may order the solicitor, his assignee or representative, to deliver to the party making the application a copy of the bill upon payment of the costs of the copy. Order for delivery of a copy of the bill

(4) When a person, other than the client, applies for taxation of a bill delivered or for the delivery of a copy thereof for the purpose of taxation and it appears that by reason of the conduct of the Taxation at instance of third person

client the applicant is precluded from taxing the bill, but is nevertheless entitled to an account from the client, it is not necessary for the applicant to bring an action for an account, but the court may, in a summary manner, refer a bill already delivered or order delivery of a copy of the bill, and refer it for taxation, as between the applicant and the client, and may add such parties not already notified as may be necessary.

Application of s. 6

(5) The provisions of section 6, so far as they are applicable, apply to such taxation. R.S.O. 1960, c. 378, s. 37.

When a bill may be retaxed

9. No bill previously taxed shall be again referred unless under the special circumstances of the case the court thinks fit to direct a retaxation thereof. R.S.O. 1960, c. 378, s. 38.

Payment not to preclude taxation if applied for within a year

10. The payment of a bill does not preclude the court from referring it for taxation, if the application is made within twelve months after payment, and if the special circumstances of the case, in the opinion of the court, appear to require the taxation. R.S.O. 1960, c. 378, s. 39.

Taxation of costs

11. The bill of a solicitor for any fees, charges or disbursements in respect of business transacted in a surrogate court, may be directed to be taxed by the proper officer of such court. R.S.O. 1960, c. 378, s. 40.

A taxing officer may require the assistance of the officer of any other court

12. Where a bill is referred for taxation, the officer to whom the reference is made may request the proper officer of any other court to assist him in taxing any part of the bill, and the officer so requested shall thereupon tax it, and has the same powers and may receive the same fees in respect thereof as upon a reference to him by the court of which he is an officer, and he shall return the bill, with his opinion thereon, to the officer who so requests him to tax it. R.S.O. 1960, c. 378, s. 41.

How applications against solicitors to be entitled

13. Every application to refer a bill for taxation, or for the delivery of a bill, or for the delivering up of deeds, documents and papers, shall be made *In the matter of* (*the solicitor*), and upon the taxation of the bill the report of the officer by whom the bill is taxed, unless set aside or varied, is final and conclusive as to the amount thereof, and payment of the amount found to be due and directed to be paid may be enforced according to the practice of the court in which the reference was made. R.S.O. 1960, c. 378, s. 42, *amended*.

RULES

Rules Committee may make rules, etc.

14. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make general rules for carrying out this Act. R.S.O. 1960, c. 378, s. 43, *amended*.

15. Such rules may include rules respecting business by solicitors connected with sales, purchases, leases, mortgages, settlements and other matters of conveyancing, and may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or percentage, varying or not in different classes of business, or by a gross sum or by a fixed sum for each document prepared or perused without regard to length, or in any other mode or partly in one mode and partly in another or others, and may, as regards the amount of the remuneration, regulate the same with reference to all or any of the following among other considerations: Principles of remuneration in conveyancing matters

1. The position of the party for whom the solicitor is concerned in any business, that is, whether as vendor or as purchaser, lessor or lessee, mortgagor or mortgagee, and the like.
2. The place, district and circumstances at or in which the business or part thereof is transacted.
3. The amount of the capital money or of the rent to which the business relates.
4. The skill, labour and responsibility involved therein on the part of the solicitor.
5. The number and importance of the documents prepared or perused, without regard to length. R.S.O. 1960, c. 378, s. 44.

16. In the absence of any general rule, and so far as any general rule does not apply, the taxing officer, in taxing a bill for preparing and executing any instrument, shall consider not the length of the instrument but the skill, labour and responsibility involved therein. R.S.O. 1960, c. 378, s. 45, *amended*. What to be considered in taxation of costs

AGREEMENTS BETWEEN SOLICITORS AND CLIENTS

17. In this section and in sections 18 to 35, Interpretation

(*a*) "client" includes a person who, as a principal or on behalf of another person, retains or employs or is about to retain or employ a solicitor, and a person who is or may be liable to pay the bill of a solicitor for any services;

(*b*) "services" includes fees, costs, charges and disbursements. R.S.O. 1960, c. 378, s. 46.

18.—(1) Subject to sections 19 to 35 a solicitor may make an agreement in writing with his client respecting the amount and manner of payment for the whole or a part of any past or future services in respect of business done or to be done by the solicitor, Agreements between solicitors and clients as to compensation

either by a gross sum or by commission or percentage, or by salary or otherwise, and either at the same rate or at a greater of less rate than that at which he would otherwise be entitled to be remunerated.

Interpretation

(2) In this section, "commission" and "percentage" apply only to non-contentious business and to conveyancing.

Application

(3) This section applies to and includes any business to which section 15 relates, whether or not any general rule under section 14 is in operation. R.S.O. 1960, c. 378, s. 47.

Approval of agreement by taxing officer

19. Where the agreement is made in respect of business done or to be done in any court, except a small claims court, the amount payable under the agreement shall not be received by the solicitor until the agreement has been examined and allowed by a taxing officer of a court having power to enforce the agreement. R.S.O. 1960, c. 378, s. 48, *amended*.

Opinion of court on agreement

20. Where it appears to the taxing officer that the agreement is not fair and reasonable, he may require the opinion of a court to be taken thereon. R.S.O. 1960, c. 378, s. 49.

Rejection of agreement by court

21. The court may either reduce the amount payable under the agreement or order it to be cancelled and the costs, fees, charges and disbursements in respect of the business done to be taxed in the same manner as if the agreement had not been made. R.S.O. 1960, c. 378, s. 50.

Agreement not to affect costs as between party and party

22. Such an agreement does not affect the amount, or any right or remedy for the recovery, of any costs recoverable from the client by any other person, or payable to the client by any other person, and any such other person may require any costs payable or recoverable by him to or from the client to be taxed in the ordinary manner, unless such person has otherwise agreed; but the client who has entered into the agreement is not entitled to recover from any other person under any order for the payment of any costs that are the subject of the agreement more than the amount payable by the client to his own solicitor under the agreement. R.S.O. 1960, c. 378, s. 51.

Claims for additional remuneration excluded

23. Such an agreement excludes any further claim of the solicitor beyond the terms of the agreement in respect of services in relation to the conduct and completion of the business in respect of which it is made, except such as are expressly excepted by the agreement. R.S.O. 1960, c. 378, s. 52.

Agreements relieving solicitor from liability for negligence void

24. A provision in any such agreement that the solicitor is not to be liable for negligence or that he is to be relieved from any responsibility to which he would otherwise be subject as such solicitor is wholly void. R.S.O. 1960, c. 378, s. 53.

Determination of disputes under the agreement

25. No action shall be brought upon any such agreement, but every question respecting the validity or effect of it may be examined and determined, and it may be enforced or set aside without action on the application of any person who is a party to the agreement or who is or is alleged to be liable to pay or who is or claims to be entitled to be paid the costs, fees, charges or disbursements, in respect of which the agreement is made, by the court, not being a small claims court, in which the business or any part of it was done or a judge thereof, or, if the business was not done in any court, by the Supreme Court. R.S.O. 1960, c. 378, s. 54, *amended*.

Enforcement of agreement

26. Upon any such application, if it appears to the court that the agreement is in all respects fair and reasonable between the parties, it may be enforced by the court by order in such manner and subject to such conditions as to the costs of the application as the court thinks fit, but, if the terms of the agreement are deemed by the court not to be fair and reasonable, the agreement may be declared void, and the court may order it to be cancelled and may direct the costs, fees, charges and disbursements incurred or chargeable in respect of the matters included therein to be taxed in the ordinary manner. R.S.O. 1960, c. 378, s. 55.

Reopening of agreement

27. Where the amount agreed under any such agreement has been paid by or on behalf of the client or by any person chargeable with or entitled to pay it, the Supreme Court may, upon the application of the person who has paid it, within twelve months after the payment thereof, if it appears to the court that the special circumstances of the case require the agreement to be reopened, reopen it and order the costs, fees, charges and disbursements to be taxed, and may also order the whole or any part of the amount received by the solicitor to be repaid by him on such terms and conditions as to the court seems just. R.S.O. 1960, c. 378, s. 56.

Agreements made by client in fiduciary capacity

28. Where any such agreement is made by the client in the capacity of guardian or of trustee under a deed or will, or of committee of any person whose estate or property will be chargeable with the amount or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before the taxing officer at Toronto who shall examine it and may disallow any part of it or may require the direction of the court to be made thereon. R.S.O. 1960, c. 378, s. 57.

Client paying without approval to be liable to estate

29. If the client pays the whole or any part of such amount without the previous allowance of such officer or the direction of the court, he is liable to account to the person whose estate or property is charged with the amount paid or any part of it for the amount so charged, and the solicitor who accepts such payment

may be ordered by the court to refund the amount received by him. R.S.O. 1960, c. 378, s. 58.

Solicitors not to purchase any interest in litigation or to make payment dependent upon success

30. Nothing in sections 18 and 35 gives validity to a purchase by a solicitor of the interest or any part of the interest of his client in any action or other contentious proceeding to be brought or maintained, or gives validity to an agreement by which a solicitor retained or employed to prosecute an action or proceeding stipulates for payment only in the event of success in the action or proceeding, or where the amount to be paid to him is a percentage of the amount or value of the property recovered or preserved or otherwise determinable by such amount or value or dependent upon the result of the action or proceeding. R.S.O. 1960, c. 378, s. 59.

Where solicitor dies or becomes incapable of acting after agreement

31. Where a solicitor who has made such an agreement and who has done anything under it dies or becomes incapable of acting before the agreement has been completely performed by him, an application may be made to any court that would have jurisdiction to examine and enforce the agreement by any person who is a party thereto, and the court may thereupon enforce or set aside the agreement so far as it may have been acted upon as if the death or incapacity had not happened, and, if it deems the agreement to be in all respects fair and reasonable, may order the amount in respect of the past performance of it to be ascertained by taxation, and the taxing officer, in ascertaining such amount, shall have regard, so far as may be, to the terms of the agreement, and payment of the amount found to be due may be ordered in the same manner as if the agreement had been completely performed by the solicitor. R.S.O. 1960, c. 378, s. 60.

Changing solicitor after making agreement

32. If, after any such agreement has been made, the client changes his solicitor before the conclusion of the business to which the agreement relates, which he is at liberty to do notwithstanding the agreement, the solicitor, party to the agreement, shall be deemed to have become incapable to act under it within the meaning of section 31, and upon any order being made for taxation of the amount due him in respect of the past performance of the agreement the court shall direct the taxing officer to have regard to the circumstances under which the change of solicitor took place, and upon the taxation the solicitor shall be deemed not to be entitled to the full amount of the remuneration agreed to be paid to him, unless it appears that there has been no default, negligence, improper delay or other conduct on his part affording reasonable ground to the client for the change of solicitor. R.S.O. 1960, c. 378, s. 61.

Bills under agreement not to be liable to taxation

33. Except as otherwise provided in sections 18 to 32 and sections 34 and 35, a bill of a solicitor for the amount due under any such agreement is not subject to any taxation or to any

provision of law respecting the signing and delivery of a bill of a solicitor. R.S.O. 1960, c. 378, s. 62.

Security may be given to solicitor for costs

34. A solicitor may accept from his client, and a client may give to his solicitor, security for the amount to become due to the solicitor for business to be transacted by him and for interest thereon, but so that the interest is not to commence until the amount due is ascertained by agreement or by taxation. R.S.O. 1960, c. 378, s. 63.

Interest on disbursements and costs

35. A solicitor may charge interest at the rate of 5 per cent per annum on his disbursements and costs, whether by scale or otherwise, from the expiration of one month from demand from the client, and where the same are payable by an infant or out of a fund presently available the demand may be made on the parent or guardian or the trustee or other person liable. R.S.O. 1960, c. 378, s. 64.

SOLICITORS AS MORTGAGEES, ETC.

Interpretation

36.—(1) In this section "mortgage" includes any charge on any property for securing money or money's worth. R.S.O. 1960, c. 378, s. 65.

Charges, etc., where mortgage is made with solicitor

(2) A solicitor to whom, either alone or jointly with any other person, a mortgage is made, or the firm of which the solicitor is a member, is entitled to receive for all business transacted and acts done by the solicitor or firm in negotiating the loan, deducing and investigating the title to the property and preparing and completing the mortgage, all the usual professional charges and remuneration that he or they would have been entitled to receive if the mortgage had been made to a person not a solicitor and the person had retained and employed the solicitor or firm to transact such business and do such acts, and such charges and remuneration are accordingly recoverable from the mortgagor. R.S.O. 1960, c. 378, s. 66.

Right of solicitor with whom mortgage is made to recover costs, etc.

(3) A solicitor to or in whom, either alone or jointly with any other person, a mortgage is made or is vested by transfer or transmission, or the firm of which the solicitor is a member, is entitled to receive and recover from the person on whose behalf the same is done or to charge against the security for all business transacted and acts done by the solicitor or firm subsequent and in relation to the mortgage or to the security thereby created or the property therein comprised all such usual professional charges and remuneration as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person not a solicitor and the person had retained and employed the solicitor or firm to transact such business and do such acts, and accordingly the mortgage shall not be redeemed except upon payment of such charges and remuneration. R.S.O. 1960, c. 378, s. 67.

Solicitor-director, right to charge for services to trust estate

(4) A solicitor who is a director of a trust company or of any other company, or the firm of which the solicitor is a member is entitled to receive for all business transacted or acts done by the solicitor or firm for the company in relation to or in connection with any matter in which the company acts as trustee, guardian, personal representative or agent, all the usual professional fees and remuneration that he or they would be entitled to receive if the solicitor had not been a director of the company, and the company had retained and employed the solicitor or firm to transact such business and do such acts, and such charges and remuneration are accordingly recoverable from the company and may be charged by them as a disbursement in the matter of such trusteeship, guardianship, administration or agency. R.S.O. 1960, c. 378, s. 68.

SALARIED SOLICITORS OF CORPORATIONS

Collection of costs where corporation solicitor or counsel receives salary

37. Where the remuneration of a solicitor or counsel employed by a corporation is wholly or partly paid by salary, the corporation employing the solicitor or counsel has, notwithstanding, the right to recover and collect lawful costs in all actions and proceedings in the same manner as if the solicitor or counsel were not receiving a salary if the costs are by the terms of his employment payable to the solicitor or counsel as part of his remuneration in addition to his salary. R.S.O. 1960, c. 378, s. 69.

CHAPTER 442

The Spruce Pulpwood Exportation Act

Prohibition of exportation in special Acts may be suspended

1. Where lands have been granted pursuant to any special Act as a subsidy to any railway or other company in connection with the establishment of its undertaking in Ontario and by such Act the exportation from Canada of spruce pulpwood cut from such lands in an unmanufactured condition is prohibited, the Lieutenant Governor in Council, on the recommendation of the Minister of Lands and Forests and notwithstanding anything in any such Act or in any patent from the Crown of lands granted pursuant thereto, may suspend the operation of any such prohibition and may permit the exportation of spruce pulpwood cut from such lands in an unmanufactured condition for such period and upon such terms and conditions as he considers proper. R.S.O. 1960, c. 379, s. 1.

Regulations

2. The Lieutenant Governor in Council may make such regulations as he considers necessary or desirable to carry out effectively the intent and purpose of this Act and for its efficient administration. R.S.O. 1960, c. 379, s. 2.

CHAPTER 443

The Statistics Act

1. In this Act,

Interpretation

(*a*) "person", in addition to its meaning in *The Interpretation Act*, includes a municipality as defined in *The Department of Municipal Affairs Act*; R.S.O. 1970, cc. 225, 118

(*b*) "statistical information" means information relative to the economic, financial, industrial, commercial, social and general activities and condition of persons, whether such information is collected by means of sampling or any other statistical method. 1962-63, c. 133, s. 1.

2.—(1) Subject to subsections 3 and 4, the Lieutenant Governor in Council may authorize the minister of any department of government, Statistical procedures authorized

(*a*) to enter into an agreement with the Government of Canada or the government of any province in Canada or any agency of any such government to provide for an exchange or joint collection of statistical information;

(*b*) to collect, compile, analyse and publish statistical information;

(*c*) to collect statistical information jointly with the minister of any other department of government.

(2) Every authorization given under clause *b* or *c* of subsection 1 shall have attached thereto a questionnaire setting out the questions that are proposed to be asked, the persons or class of persons to whom the questionnaire is directed and the time within which such persons will be required to answer the questions and return the questionnaire. Questionnaires

(3) Every agreement and every authorization proposed under this section shall be in writing and filed with the Treasurer of Ontario and Minister of Economics before submission to the Lieutenant Governor in Council. Agreements

(4) The Treasurer of Ontario and Minister of Economics shall submit a report to the Lieutenant Governor in Council on every agreement and every authorization proposed under this section. 1962-63, c. 133, s. 2. Report

Questions to be answered

3. The questions in any questionnaire authorized under this Act shall be accurately and truthfully answered by each person to whom the questionnaire is directed and shall be returned to the minister who issued it. 1962-63, c. 133, s. 3.

Oath of office and secrecy

4.—(1) No person shall collect, compile, analyse or publish statistical information under this Act until he takes and subscribes before his minister, his deputy minister, or a person designated in writing by either of them, an oath of office and secrecy in the following form:

> I, ..., do swear that I will faithfully discharge my duties under *The Statistics Act* and, except as I may be legally required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my duties under *The Statistics Act*. So help me God.

No unauthorized disclosure

(2) Subject to section 6, no public servant having knowledge of the answers to questions asked in a questionnaire under this Act shall disclose or give to any person any information or document with respect to such answers without the written permission of his minister, and, except where statistical information is collected jointly under this Act, such permission shall be limited to the disclosing or giving of information or documents to public servants in the minister's department or in prosecutions instituted for offences against this Act.

Answers to be confidential

(3) Notwithstanding anything in this Act, no minister or public servant shall, in any way, use the answers to questions asked in a questionnaire authorized under this Act for any purpose other than the purposes of this Act.

No personal liability

(4) No person who collects, compiles, analyses or publishes statistical information under this Act is personally liable for anything done by him under the authority of this Act. 1962-63, c. 133, s. 4.

No discrimination

5.—(1) No person, when acting under the authority of this Act, shall discriminate between persons to the prejudice of any person.

Sampling permitted

(2) Nothing in this section prohibits the collection of statistical information by means of sampling. 1962-63, c. 133, s. 5.

Disclosure of information to another department

6.—(1) Where a person who has answered a question in a questionnaire consents in writing, a minister may give permission to a public servant in his department who has knowledge of the answer to disclose or give the answer to one or more public servants in another department.

Indexes, etc., excepted

(2) Subsection 1 does not apply to an index or list, whether released separately or in a report, summary of statistics or other

publication under this Act, of answers to the questions in a questionnaire revealing only,

(*a*) the names and locations of individual firms or businesses; or

(*b*) the types of products commercially produced, manufactured or dealt with by individual firms or businesses,

but no such list or index shall otherwise disclose any of the answers given to the questions in a questionnaire. 1962-63, c. 133, s. 6.

Offences: failure to give answers; false answers

7. Any person who,

(*a*) being required under the authority of this Act to answer any question in a questionnaire and to return it to the minister who issued it, fails to answer, without lawful excuse, any such question or to return the questionnaire within the time prescribed; or

(*b*) wilfully gives a false answer to any such question,

is, for every day of such failure or for every false answer, guilty of an offence and on summary conviction is liable to a fine of not more than $100 or to imprisonment for a term of not more than three months, or to both. 1962-63, c. 133, s. 7.

Offences: obtaining unauthorized information; unauthorized disclosure

8. Any person who,

(*a*) in the pretended performance of his duties under this Act, obtains or seeks to obtain information that he is not duly authorized to obtain; or

(*b*) discloses or gives any information or document to any person in contravention of subsection 2 of section 4,

is guilty of an offence and on summary conviction is liable to a fine of not more than $300 or to imprisonment for a term of not more than six months, or to both. 1962-63, c. 133, s. 8.

Offences: affecting market value; speculating

9. Any person who,

(*a*) discloses or gives any information or document respecting an answer to a question in a questionnaire authorized under this Act to any person with the intent that the market value of a product is thereby affected; or

(*b*) uses an answer in any such questionnaire for the purpose of speculating in a product,

is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000 or to imprisonment for a term of not more than five years, or to both. 1962-63, c. 133, s. 9.

Regulations

10. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the manner in which information shall be collected, compiled, analysed or published under this Act;

(*b*) prescribing forms and providing for their use;

(*c*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1962-63, c. 133, s. 10.

CHAPTER 444

The Statute of Frauds

Writing required to create certain estates or interests

1.—(1) Every estate or interest of freehold and every uncertain interest of, in, to or out of any messuages, lands, tenements or hereditaments shall be made or created by a writing signed by the parties making or creating the same, or their agents thereunto lawfully authorized in writing, and, if not so made or created, has the force and effect of an estate at will only, and shall not be deemed or taken to have any other or greater force or effect.

Leases to be made by deed

(2) All leases and terms of years of any messuages, lands, tenements or hereditaments are void unless made by deed. R.S.O. 1960, c. 381, s. 1.

How leases or estates of freehold, etc., to be granted or surrendered R.S.O. 1970, c. 85

2. Subject to section 9 of *The Conveyancing and Law of Property Act*, no lease, estate or interest, either of freehold or term of years, or any uncertain interest of, in, to or out of any messuages, lands, tenements or hereditaments shall be assigned, granted or surrendered unless it be by deed or note in writing signed by the party so assigning, granting, or surrendering the same, or his agent thereunto lawfully authorized by writing or by act or operation of law. R.S.O. 1960, c. 381, s. 2.

Except leases not exceeding three years, etc.

3. Sections 1 and 2 do not apply to a lease, or an agreement for a lease, not exceeding the term of three years from the making thereof, the rent upon which, reserved to the landlord during such term, amounts to at least two-thirds of the full improved value of the thing demised. R.S.O. 1960, c. 381, s. 3.

Writing required for certain contracts

4. No action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate, or whereby to charge any person upon any special promise to answer for the debt, default or miscarriage of any other person, or to charge any person upon any agreement made upon consideration of marriage, or upon any contract or sale of lands, tenements or hereditaments, or any interest in or concerning them, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement upon which the action is brought, or some memorandum or note thereof is in writing and signed by the party to be charged therewith or some person thereunto by him lawfully authorized. R.S.O. 1960, c. 381, s. 4.

Limitation as to validity of certain covenants or conditions

5. A promise, contract or agreement to pay a sum of money by way of liquidated damages or to do or suffer any other act, matter or thing based upon, arising out of, or relating to a promise, contract or agreement dealt with in section 4 is not of any greater validity than the last-mentioned promise, contract or agreement. R.S.O. 1960, c. 381, s. 5.

Consideration for promise to answer for another need not be in writing

6. No special promise made by a person to answer for the debt, default or miscarriage of another person, being in writing and signed by the party to be charged therewith, or by some other person by him thereunto lawfully authorized, shall be deemed invalid to support an action or other proceeding to charge the person by whom the promise was made by reason only that the consideration for the promise does not appear in writing, or by necessary inference from a written document. R.S.O. 1960, c. 381, s. 6.

As to ratification of promise made during nonage

7. No action shall be maintained whereby to charge a person upon a promise made after full age to pay a debt contracted during infancy or upon a ratification after full age of a promise or simple contract made during infancy, unless the promise or ratification is made by a writing signed by the party to be charged therewith or by his agent duly authorized to make the promise or ratification. R.S.O. 1960, c. 381, s. 7.

As to representation regarding the character, credit, etc., of a third party

8. No action shall be brought whereby to charge a person upon or by reason of a representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain money, goods or credit thereupon, unless the representation or assurance is made by a writing signed by the party to be charged therewith. R.S.O. 1960, c. 381, s. 8.

Declarations or creations of trusts of land to be in writing

9. Subject to section 10, all declarations or creations of trusts or confidences of any lands, tenements or hereditaments shall be manifested and proved by a writing signed by the party who is by law enabled to declare such trust, or by his last will in writing, or else they are utterly void and of no effect. R.S.O. 1960, c. 381, s. 9.

Exception of trusts arising, transferred, or extinguished by implication of law

10. Where a conveyance is made of lands or tenements by which a trust or confidence arises or results by implication or construction of law, or is transferred or extinguished by act or operation of law, then and in every such case the trust or confidence is of the like force and effect as it would have been if this Act had not been passed. R.S.O. 1960, c. 381, s. 10.

11. All grants and assignments of a trust or confidence shall likewise be in writing signed by the party granting or assigning the same, or by such last will or devise, or else are likewise utterly void and of no effect. R.S.O. 1960, c. 381, s. 11.

Assignments of trusts to be in writing

CHAPTER 445

The Statute Labour Act

EXEMPTIONS

Exemptions of persons in Canadian Armed Forces

1. A person who is a member of the Canadian Armed Forces is not liable to perform statute labour or to commute therefor. R.S.O. 1960, c. 382, s. 1, *amended*.

Students

2. A student in attendance at an institution of learning in Ontario is not liable to perform statute labour or to commute therefor. R.S.O. 1960, c. 382, s. 2; 1968, c. 128, s. 1.

STATUTE LABOUR

Number of days of statute labour

3.—(1) Every person assessed upon the assessment roll of a township that has not passed a by-law abolishing statute labour is, if his property is assessed at not more than $300, liable to two days statute labour; at more than $300 but not more than $500, three days; at more than $500 but not more than $700, four days; at more than $700 but not more than $900, five days; and for every $300 over $900, or any fractional part thereof over $150, one additional day; but the council may, by a by-law operating generally and rateably, reduce or increase the number of days labour to which all the persons rated on the assessment roll or otherwise, shall be respectively liable so that the number of days labour to which each person is liable shall be in proportion to the amount at which he is assessed, and in all cases both of residents and non-residents the statute labour shall be rated and charged against every separate lot or parcel according to its assessed value.

Case of parts of lots owned by one person

(2) Where one person is assessed for lots or parts of several lots in different parts of the township, not exceeding in the aggregate 200 acres, such part or parts shall be rated and charged for statute labour as if the same were one lot, and the statute labour shall be rated and charged against any excess over 200 acres as if the excess were one lot.

Where labour to be performed

(3) Every resident has the right to perform his whole statute labour in the statute labour division in which his residence is situate, unless otherwise ordered by the municipal council.

Regulations as to performance

(4) The council may pass by-laws for regulating the manner and the divisions in which statute labour or commutation money shall be performed or expended. R.S.O. 1960, c. 382, s. 4.

Commutation of labour

4.—(1) The council of any township may by by-law direct that a sum not exceeding $3 a day shall be paid as commutation of statute labour for the whole or any part of the township, in which case the amount of the commutation shall be added in a separate column in the collector's roll and shall be collected and accounted for like other taxes.

Idem

(2) Where no such by-law has been passed, the statute labour in respect of lands of residents and non-residents shall be commuted at the rate of $2 for each day's labour. R.S.O. 1960, c. 382, s. 5.

Labour in township in which poll tax is not levied

5.—(1) In a township that has not passed a by-law abolishing statute labour, every male inhabitant of the township who,

(*a*) is twenty-one years or over and under sixty years of age;

(*b*) is not exempt from performing statute labour;

(*c*) is not otherwise assessed in the township; and

(*d*) has not filed with the clerk a certificate showing that he has been assessed or performed statute labour elsewhere in Ontario,

is liable to one day of statute labour on the roads and highways in the township.

Case of farmer's son

(2) Every farmer's son entered as such on the assessment roll of a township is, if not otherwise exempted by law, liable to perform statute labour or commute therefor as if he were not so entered. R.S.O. 1960, c. 382, s. 6, *amended*.

Abolition of labour

6. The council of every township may pass by-laws to abolish statute labour. R.S.O. 1960, c. 382, s. 7.

Penalty for non-performance

7.—(1) Any person liable to perform statute labour under section 5, not commuted, shall perform it when required so to do by the pathmaster of other officer of the municipality appointed for that purpose, and, in case of wilful neglect or refusal to perform the labour after six days notice requiring him to do so, shall incur a penalty of $10.

Payment of penalties to treasurer

(2) All sums and penalties, other than costs, recovered under this section shall be paid to the treasurer of the local municipality and shall form part of the statute labour fund thereof. R.S.O. 1960, c. 382, s. 8.

Commutation in case of non-resident owner of unoccupied land

8. A non-resident owner of unoccupied land shall not be permitted to perform statute labour in respect thereof, but the labour shall be commuted and the amount of the commutation shall be charged against every separate lot or parcel and be entered in the collector's roll, and the council shall order all sums

paid on that account to be expended in the statute labour division in which the lands is situate. R.S.O. 1960, c. 382, s. 9.

If resident owner, etc., makes default, commutation to be entered upon collector's roll

9.—(1) Where an owner or tenant makes default in performing his statute labour or in payment of commutation therefor, the overseer of highways in whose division he is placed shall return him as a defaulter to the clerk of the municipality before the 15th day of August, and the clerk shall in that case enter the commutation for statute labour against the land in the collector's roll of the current or following year, and it shall be collected by the collector.

Overseer to expend the commutation money in the division

(2) In every such case the clerk shall notify the overseer of highways who may be appointed for the division in the following year, or after it has been collected, of the amount of the commutation, and the overseer shall expend that amount upon the roads in the statute labour division where the property is situate, and shall give an order upon the treasurer of the municipality to the person performing the work. R.S.O. 1960, c. 382, s. 10.

STATUTE LABOUR IN UNINCORPORATED TOWNSHIPS ROAD COMMISSIONERS

Meeting for election of road commissioners

10.—(1) Twenty resident landholders,

(*a*) in any unincorporated township;

(*b*) in any designated part of any unincorporated township;

(*c*) in any two or more contiguous unincorporated townships;

(*d*) in any designated parts of two or more contiguous unincorporated townships; or

(*e*) in any locality that has not been surveyed or laid out into townships,

have the right to have a public meeting called for the purpose of electing road commissioners.

Interpretation

(2) In this section and in the following sections of this Act, "landholder" means an owner, locatee, purchaser or tenant of land who is a British subject, and "resident" includes a person who resides in the township or locality for any part of a year. R.S.O. 1960, c. 382, s. 11.

Requisition for meeting

11.—(1) The landholders desiring the meeting to be called shall sign a requisition authorizing one of their number, who shall be named in the requisition, to call a meeting of the resident landholders of the township or townships or of the designated part or parts of the township or townships or of the locality for the purpose of electing road commissioners.

Where jurisdiction extends to parts of two or more townships

(2) Where it is proposed that the road commissioners shall have jurisdiction over two or more townships or designated parts of two or more townships, the requisition shall be signed by at least eight resident landholders in any one township or part of a township or where there are less than fifteen resident landholders in any one township or part of a township by a majority of them, but the total number of resident landholders signing the requisitions shall not be less than twenty and the requisition shall designate what parts of the townships are to be included. R.S.O. 1960, c. 382, s. 12.

Meeting in case person named fails to call it

12. In case the person so named declines to call a meeting or neglects to do so for ten days after the requisition is presented to him, any three of the persons who signed the requisition may call the meeting. R.S.O. 1960, c. 382, s. 13.

Notice of meeting

13. The notice calling the meeting shall be in Form 1, and,

(*a*) shall be posted up in at least six conspicuous places and at each post office and public school house in the township, townships or locality, as the case may be; or

(*b*) shall be sent by registered mail to all landholders in the township, townships or locality addressed to their last known place of residence; or

(*c*) shall be published once a week for at least three weeks in a newspaper having general circulation in the township, townships or locality,

and the day named in the notice shall be at least ten days from the date of the last posting, mailing or publication, as the case may be. R.S.O. 1960, c. 382, s. 14.

Number of commissioners

14. The election shall take place at the time named, and the number of commissioners to be elected shall be either three or five, as may be stated in the requisition, unless the meeting, before proceeding to an election, decides that a number different from that stated in the requisition shall be elected, but the number shall not be fewer than three nor more than five. R.S.O. 1960, c. 382, s. 15.

Chairman of meeting

15. In case the meeting is called by the person named in the requisition, he is entitled to preside at the meeting as chairman, but if he is absent, or declines to act, the landholders present may appoint another chairman, and the chairman shall act as returning officer and, in the event of a tie, has a casting vote, although he may have previously voted, and the landholders present shall also appoint a secretary, who shall record the proceedings. R.S.O. 1960, c. 382, s. 16.

16.—(1) The landholders present shall decide how the voting for commissioners shall be conducted. Mode of voting

(2) Every person is entitled to vote in the election of the road commissioners who is, Qualification of voters

(*a*) of the full age of twenty-one years;

(*b*) a British subject by birth or naturalization; and

(*c*) a landholder in the township or townships, or part or parts thereof, or the locality, for which the election is held.

(3) Where there is not a sufficient number of resident landholders who are British subjects to have a meeting called for the election of road commissioners pursuant to the requirements of this Act, the Minister of Lands and Forests, upon the application in writing of any three resident landholders in the township or locality, may in writing certify to that effect and in that case, resident landholders otherwise qualified who are and who are not British subjects may have the meeting called and vote in the election of road commissioners. R.S.O. 1960, c. 382, s. 17. Where sufficient British subjects are not available

17. No person may be elected as a road commissioner unless he is a British subject and otherwise qualified to vote in the election of road commissioners and unless he has performed or commuted for the statute labour to which he is liable. R.S.O. 1960, c. 382, s. 18. Qualification of road commissioners

18. The chairman shall, at the request of any two landholders present, direct the secretary to record the names of all persons voting and, unless the vote is by ballot, how each votes. R.S.O. 1960, c. 382, s. 19. Record of persons voting

19.—(1) If an objection is made to the right of any person to vote at the meeting, the person shall name the property in respect of which he claims the right to vote, and the chairman shall administer to him an oath, or affirmation if he is by law permitted to affirm, according to the following form, whereupon the person shall be permitted to vote: Objections to voters

> You swear (or *if the voter is entitled to affirm*, solemnly affirm) that you are of the age of twenty-one years, and that you are the owner, tenant, purchaser or locatee of lot.....in the.....concession of this township, that you are a British subject, and that you are entitled to vote at this election.
>
> So help you God.

(2) In the case of an election held under the authority of subsection 3 of section 16, it is not necessary that a person desiring to vote be required to make oath or affirm that he is a British subject, and the form set forth in subsection 1 shall be amended accordingly. R.S.O. 1960, c. 382, s. 20. When oath, etc., not necessary

Declaration of office

20. The commissioners elected shall take a declaration of office in Form 2 before a justice of the peace and shall hold office until their successors are elected at the meeting called as provided in section 28 or, where no such meeting is called, until the 31st day of May in the year following that in which they were elected. R.S.O. 1960, c. 382, s. 21.

First meeting of commissioners

21. The commissioners shall meet within two weeks after their election, and shall then or as soon thereafter as may be, name the roads and parts of roads upon which statute labour is to be performed, and shall appoint the places and times at which the persons required to perform statute labour are to work. R.S.O. 1960, c. 382, s. 22.

Powers of road commissioners as to opening roads

22.—(1) The commissioners have power to open road allowances when they have been laid down in the original surveys, and where such road allowances are either wholly or partly impracticable, to lay out roads in lieu thereof and direct the performance of statute labour thereon, and where no road allowances are laid down in the original surveys, but any of the area is reserved for roads, the commissioners may lay out roads where necessary and direct the performance of statute labour accordingly. R.S.O. 1960, c. 382, s. 23 (1); 1962-63, c. 134, s. 1.

Filing plan of roads in Department of Lands and Forests

(2) In cases of deviations from road allowances and of roads laid out where there are no road allowances as above provided, the commissioners shall cause a plan thereof, so far as the same affects ungranted lands of the Crown, to be made by an Ontario land surveyor and shall file the plan in the Department of Lands and Forests, and the commissioners may pay the cost of preparing the plan out of any moneys received by way of commutation of statute labour.

Compensation for land taken for deviation

R.S.O. 1970, c. 154

(3) In the case of a deviation passing over any patented improved land, the commissioners may pay to the owner of the land taken for the purpose of making the deviation the value of it as may be agreed upon between the commissioners and the owner, and in case of disagreement, *The Expropriations Act* applies.

Land to be vested in Crown

(4) Where the value of the land taken has been agreed upon between the commissioners and the owner, the owner shall execute a conveyance of the land to Her Majesty in right of Ontario and such conveyance shall be registered in the proper registry or land titles office.

Time for performance

23. The time for the performance of statute labour shall from time to time be regulated and fixed by resolution of the commissioners. R.S.O. 1960, c. 382, s. 24.

24.—(1) Notwithstanding subsection 3, each owner, locatee, purchaser or tenant of land may be required to perform one day's labour for every fifty acres and one day's labour for the remainder of the acreage held by him, where the total acreage held by him divided by 50 leaves a remainder, and for the first ten acres that he has cleared after the first ten, he may be required to perform one day's additional labour, and for every twenty acres over and above the first ten, one additional day's labour, and each householder who is not an owner, locatee, purchaser or tenant of the land may be required each year to perform one day's labour. Amount of statute labour to be performed

(2) Any owner, locatee, purchaser or tenant of land holding less than fifty acres may be required to perform statute labour as the commissioners may direct, but not exceeding the scale provided for in subsection 1 where the land is in part cleared and not exceeding one day where no part of the land is cleared. Idem

(3) Where road commissioners have been elected for any unincorporated area the secretary-treasurer shall enter in the statute labour book the name, date of birth and place of abode of every male inhabitant thereof who, Statute labour in unincorporated areas

(*a*) is twenty-one years or over and under sixty years of age;

(*b*) is not exempt from performing statute labour;

(*c*) is not assessed for statute labour in the area under subsection 1 or 2; and

(*d*) has not filed with the secretary-treasurer a certificate showing that he has been assessed or performed statute labour elsewhere in Ontario,

and every such male inhabitant is liable to one day of statute labour on the roads in the area.

(4) Where the land in an unincorporated township is assessed for school purposes under *The Public Schools Act* the commissioners may by resolution provide that the amount of statute labour to be performed shall be determined on the same basis as is prescribed in subsection 1 of section 3 in which case the provisions of subsections 1 and 2 of section 3 apply *mutatis mutandis*. R.S.O. 1960, c. 382, s. 25, *amended*. Where land assessed for school purposes R.S.O. 1970, c. 385

25.—(1) Each commissioner shall, during the time he is required to perform statute labour, act as overseer, and the commissioners shall arrange among themselves for overseeing the various bodies of men engaged in doing statute labour. Commissioners to oversee work

(2) The commissioners have the same powers as municipal corporations have in reference to statute labour to appoint overseers and require returns to be made to them of the statute labour performed in their districts. R.S.O. 1960, c. 382, s. 26. General powers

Commutation

26.—(1) Any person instead of performing the statute labour required of him may commute therefor by payment at the rate per day fixed by resolution of the commissioners which rate shall not be greater than the rate per day paid for labour by the Department of Highways, and the commissioners shall expend all commutation money upon the roads on which the labour that is commuted for should have been performed, unless in the opinion of the commissioners the money should be expended on other roads under their jurisdiction.

Unoccupied land of non-resident owner

(2) The statute labour in respect of unoccupied land of a non-resident owner shall in all cases be commuted. R.S.O 1960, c. 382, s. 27.

Commutation of statute labour in townships

27.—(1) The commissioners may by resolution direct that a sum computed at the rate per day fixed by resolution of the commissioners under subsection 1 of section 26 shall be paid as commutation of statute labour for the whole of the township, but the resolution shall not take effect until it has been submitted to and sanctioned by the majority of the landholders present at the annual meeting or at a special meeting called in the manner provided for in this Act for the election of commissioners.

Record of persons liable to commutation

(2) The name of every person liable for the payment of the commutation shall be entered in the book directed to be kept by section 32, and the commissioners shall expend all commutation moneys received on the roads upon which the labour that is commuted for should have been performed unless in the opinion of the commissioners the money should be expended on other roads under their jurisdiction. R.S.O. 1960, c. 382, s. 28.

Meeting for election of new commissioners

28. The majority of the commissioners may call a meeting to be held at any time between the 1st day of January and the 31st day of May for the election of their successors, but in case of their failure so to do a meeting may be called in the manner hereinbefore provided for a first election. R.S.O. 1960, c. 382, s. 29.

Penalty for neglect to perform work or pay money

29. Any person liable to perform statute labour or to pay an amount of commutation money in lieu thereof under sections 10 to 36 who, after six days notice requiring him to do the labour, wilfully neglects or refuses to perform, at the time and place named by the commissioners, the number of days labour for which he is liable or who, after six days notice requiring him to pay the money, fails to pay the amount of commutation money for which he is liable, shall incur a penalty of $5, and in addition the amount of the commutation money as fixed by the commissioners under section 26 for each day in respect of which he makes default, the same to be paid to the secretary-treasurer and to be expended in improving the roads on which the labour should have been

performed, or such other roads as, in the opinion of the commissioners, require improvement. R.S.O. 1960, c. 382, s. 30.

Election of chairman and appointment of secretary-treasurer

30.—(1) The commissioners, at the first meeting after their election, shall elect one of their number as chairman to preside at meetings and shall appoint some competent person who may be one of themselves other than the chairman, as secretary-treasurer and the secretary-treasurer is exempt from the performance of statute labour and the commissioners may each year pay to the secretary-treasurer out of the commutation fund such amount, not exceeding $50, as may be fixed by resolution of the commissioners.

Security

(2) The secretary-treasurer before entering on his duties shall take a declaration of office in Form 2 before a justice of the peace, and shall give security satisfactory to the commissioners which shall be lodged for safe-keeping with the chairman. R.S.O. 1960, c. 382, s. 31.

Commutation money

31. The secretary-treasurer shall receive and safely keep all commutation money and shall pay out such money in accordance with the provisions of this Act. R.S.O. 1960, c. 382, s. 32.

Statute labour book

32.—(1) The secretary-treasurer shall keep a statute labour book in Form 3 and shall enter therein the name of every person liable for the performance of statute labour or payment of the commutation and the lot or parcel of land in respect of which he is liable.

Entry of payment or performance

(2) Upon the performance of statute labour or payment of the commutation the secretary-treasurer shall make entry thereof in the statute labour book in the column provided for that purpose.

Entry of default

(3) Where any person who has been served with the prescribed notice as provided in section 33 does not perform his statute labour or commute therefor, the secretary-treasurer shall enter the commutation thereof in the proper column of the statute labour book against the name of the person in default.

Inspection of statute labour book

(4) The statute labour book shall be available for inspection at all reasonable times by any owner or locatee of land, or householder in the area over which the commissioners have jurisdiction and by any officer or servant of the Department of Highways designated by the Minister of Highways. R.S.O. 1960, c. 382, s. 33.

Notice to perform statute labour

33.—(1) The secretary-treasurer shall serve each notice to perform statute labour in Form 4 or, where a resolution has been passed and sanctioned as provided by section 27, to pay the commutation thereof in Form 5 personally or by leaving it at

the usual place of abode of the person to whom it is directed with a grown up person residing there or by sending it by registered mail addressed to the person to whom it is directed at the post office nearest to his last known place of residence.

Time

(2) The notices shall be served not less than six days before the date on which the person liable for statute labour is required to report or to pay exclusive of that date and the date of the service or mailing as the case may be. R.S.O. 1960, c. 382, s. 34.

Return of arrears to sheriff

34.—(1) On or before the 1st day of June in the year following that in which default was made, the secretary-treasurer shall make a return in Form 6 to the sheriff of the district showing each lot or parcel of land in respect of which default has been made, the name of the owner or locatee, the amount chargeable at the date of the return and the year for which the amount in arrear was imposed.

Sheriff to keep account of arrears

(2) The sheriff shall enter the particulars so furnished in a book to be kept by him for that purpose.

Payment of arrears not to be made to secretary-treasurer after two years

(3) The secretary-treasurer shall not receive any payments on account of such arrears after the expiration of two years from the date specified in the notice in Form 4 or 5, but in the case of payments made within such period the secretary-treasurer shall forthwith notify the sheriff thereof and the sheriff shall enter the payment against the proper lot or parcel in the book kept by him for that purpose.

After two years all arrears to be paid to sheriff

(4) Upon the expiration of the two year period all arrears are payable to the sheriff and the sheriff shall enter every payment in the book kept by him and shall return the amount paid to the secretary-treasurer.

Arrears to bear interest

(5) All arrears bear interest at the rate of 10 per cent per annum. R.S.O. 1960, c. 382, s. 35.

Sale of land by sheriff for arrears

35.—(1) Where it appears from the entries in the book kept by the sheriff that any amount chargeable for statute labour is in arrear for three years from the 31st day of December in the year in which the amount became payable, the sheriff shall proceed to collect the amount together with the penalties provided by section 29 and interest as provided by subsection 5 of section 34 and all other lawful charges and costs by the sale of the lands in respect of which the arrears are chargeable and the procedure in relation to the sale and the provisions applicable to deeds, the redemption of lands thereafter and deeds to be given to purchasers shall be the same as nearly as possible as in the case of the sale of lands by the sheriff under section 202 of *The Assessment Act*, being chapter 272 of the Revised Statutes of Ontario, 1937, for arrears of taxes in organized municipalities in the Provisional

Judicial District of Parry Sound, but the commissioners shall not purchase such land.

Notice of adjourned sale

(2) The sheriff shall give notice in the advertisement of an adjourned sale that if no price is offered for any land or any interest therein at the adjourned sale the land or the interest therein of the owner or person liable for the statute labour in arrear may be forfeited to the Crown and if, at the adjourned sale, no price is in fact offered, he shall forthwith notify the Minister of Lands and Forests accordingly giving a description of the land, the name of the owner or person liable for the statute labour in arrear and the amount of the arrears together with any penalties, interest, charges and costs that may be payable in respect thereof.

Forfeiture

R.S.O. 1970, c. 370

(3) Upon notification by the sheriff that no price has been offered for any land or any interest therein at an adjourned sale, the Minister of Lands and Forests may declare the land or the interest therein forfeited to the Crown as provided in *The Provincial Land Tax Act* in the case of land or the interest therein in respect of which the taxes imposed under that Act remain unpaid for a period of two years and the provisions of *The Provincial Land Tax Act* apply *mutatis mutandis* to the land or the interest therein so forfeited.

Where forfeiture annulled on payment of arrears

(4) Where forfeiture is annulled upon payment to the Minister of Lands and Forests in addition to any amounts payable under *The Provincial Land Tax Act* by reason of the forfeiture, of the amount of the arrears, penalties, interest, charges and costs referred to in subsection 1, the Minister of Lands and Forests shall remit to the secretary-treasurer of the commissioners the amount of such arrears, penalties and interest, and to the Minister of Highways such charges and costs. R.S.O. 1960, c. 382, s. 36.

Penalty for neglect to serve as commissioners

36. The commissioners, when duly elected, shall serve during the term for which they are elected or shall forfeit the sum of $5, which may be sued for, together with costs, in any court having jurisdiction by any three electors making the complaint. R.S.O. 1960, c. 382, s. 37.

RECOVERY OF PENALTIES

Recovery of penalties

R.S.O. 1970, c. 450

37. The penalties imposed by this Act are recoverable under *The Summary Convictions Act*. R.S.O. 1960, c. 382, s. 38.

FORM 1

(*Section 13*)

PUBLIC NOTICE

Notice is hereby given that a meeting will be held at (*state place*) on the.....day of....., 19....., at the hour of.....o'clock in the.....noon to elect Road Commissioners for the Township of.....as provided by *The Statute Labour Act*.

Dated this.....day of....., 19...

.....

Caller of Meeting.

R.S.O. 1960, c. 382, Form 1.

FORM 2

(*Section 20, 30 (2)*)

DECLARATION OF OFFICE

I,....., do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of road commissioner (*or* secretary-treasurer of the road commissioners) of the Township of .....and that I have not received and I will not receive any payment or reward, or promise thereof for the exercise of any partiality or malversation or other undue execution of the office and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the road commissioners of the Township.

Declared before me this.....
day of....., 19....

A Justice of the Peace.

R.S.O. 1960, c. 382, Form 2.

FORM 3

(*Section 32 (1)*)

STATUTE LABOUR BOOK

TOWNSHIP OF.....19....

OWNER OR LOCATEE			REAL PROPERTY				STATUTE LABOUR			COMMUTATION		ARREARS				PAYMENTS TO SECRETARY-TREASURER			
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
No.	Name	Address	No. of Concession	No. of Lot	No. of Acres	No. of Acres Cleared	No. of Days Labour	Date Notice to Perform Served	Days Performed	Amount at .... Per Day	Amount Paid	Amount Commutation or Labour in Default	Penalty	Total Due	Date of Return to Sheriff	Arrears Paid	Interest Paid	Date of Notice to Sheriff	Remarks

R.S.O. 1960, c. 382, Form 3.

FORM 4

(*Section 33 (1)*)

NOTICE TO PERFORM STATUTE LABOUR

To .....

TAKE NOTICE that you are hereby required to perform ..... days statute labour for which you are liable on (*describe the lot or parcel of land*), and are required to report to ....., the commissioner for the district in which your property is situate, at (*state place*) on the .... day of ....., 19....., at the hour of .....o'clock in the .....noon and to perform the labour where and as directed by him. Instead of performing the statute labour required of you, you may within six days from the date of this notice, commute therefor by paying to the undersigned the sum of $..... Should you fail to report and perform the statute labour required of you or to pay the amount of the commutation, proceedings will be taken to collect the amount of the commutation together with interest at 10 per cent per annum. You will also be liable to a penalty recoverable under *The Summary Convictions Act.*

Dated at .....this.....day of....., 19.....

.....
Secretary-Treasurer

Road Commissioners of the Township of .....

R.S.O. 1960, c. 382, Form 4.

FORM 5

(*Section 33 (1)*)

NOTICE TO PAY THE COMMUTATION OF STATUTE LABOUR

To .....

TAKE NOTICE that you are hereby required to pay to the undersigned the amount of $.....being the commutation of ..... days statute labour at $.....per day for which you are liable on (*describe the lot or parcel of land*) within six days from the date of this notice.

Should you fail to pay this amount proceedings will be taken to collect it together with interest at 10 per cent per annum. You will also be liable to a penalty recoverable under *The Summary Convictions Act.*

Dated at .....this.....day of....., 19.....

.....
Secretary-Treasurer

Road Commissioners of the Township of .....

Address .....

R.S.O. 1960, c. 382, Form 5.

FORM 6

(*Section 34 (1)*)

RETURN TO SHERIFF

ROAD COMMISSIONERS OF THE TOWNSHIP OF .....

TO THE SHERIFF OF .....

TAKE NOTICE that the following owners or locatees have not paid the commutation for which they are liable as set forth opposite their names.

Dated at ..... this ..... day of ....., 19.....

.....

Secretary-Treasurer

Address .....

Name of Owner or Locatee	Description of Lot or Parcel	Number of Acres	Amount of Commutation in Default	Year Imposed	Penalty	Total Due	Date Notice to Perform Served	How Notice Served (*personally or by mail, if by mail to what address*)

R.S.O. 1960, c. 382, Form 6.

CHAPTER 446

The Statutes Act

Citation of Acts

1. An Act may be cited and referred to for all purposes by its title, or by its short title, or by a reference to the number of the particular chapter in the revised statutes or in the annual volume of statutes printed by the Queen's Printer and Publisher. R.S.O. 1960, c. 383, s. 1, *amended*.

Enacting clause

2. The following words in an Act indicate the authority by virtue of which it is passed: "Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows". R.S.O. 1960, c. 383, s. 2.

Amendment or repeal during same session

3. Any Act may be amended, altered or repealed by an Act passed in the same session of the Legislature. R.S.O. 1960, c. 383, s. 3.

Endorsements on Acts

4. The Clerk of the Assembly shall endorse on every Act, immediately after the title of the Act, the day, month and year when it was assented to, or reserved by the Lieutenant Governor, and the day, month and year of the prorogation of the session of the Legislature at which it was passed, and, where the Act is reserved, the Clerk shall also endorse thereon the day, month and year when the Lieutenant Governor has signified, either by speech or message to the Assembly or by proclamation, that it was laid before the Governor General in Council and that the Governor General was pleased to assent thereto, and such endorsements shall be taken to be a part of the Act. R.S.O. 1960, c. 383, s. 4.

Commencement of Acts

5.—(1) Unless otherwise provided therein, every Act comes into force and takes effect on the sixtieth day after the prorogation of the session of the Legislature at which it was passed or on the sixtieth day after the day of signification, whichever is the later date.

Where Legislature dissolved

(2) Where a session of the Legislature is ended by the dissolution of the Legislature, the date of the dissolution shall for the purposes of this section be deemed to be the date of the prorogation and in every such case the Clerk of the Assembly shall endorse on every Act passed at the session the day, month and year of the dissolution in lieu of the day, month and year of the prorogation.

Proclamations

(3) Where an Act provides that it is to come into force on a day to be named by the Lieutenant Governor by his proclamation, or that it is not to come into force until a day to be so named, any such proclamation may apply to the whole or any part or parts or portion or portions or section or sections of the Act, and proclamations may be issued at different times as to any part or parts or portion or portions or section or sections of the Act. R.S.O. 1960, c. 383, s. 5.

Printing and distribution

6. The statutes shall be printed, published and distributed by the Queen's Printer and Publisher in such manner as is from time to time prescribed by the Lieutenant Governor in Council and approved by resolution of the Assembly. R.S.O. 1960, c. 383, s. 6, *amended.*

Clerk to furnish copies of Acts to Queen's Printer

7. The Clerk of the Assembly shall furnish the Queen's Printer and Publisher with a certified copy of every Act of the Legislature as soon as it has been assented to, or, if the Act has been reserved, as soon as the assent thereto has been signified. R.S.O. 1960, c. 383, s. 7, *amended.*

CHAPTER 447

The St. Lawrence Parks Commission Act

1. In this Act, Interpretation

(*a*) "Commission" means The St. Lawrence Parks Commission;

(*b*) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;

(*c*) "Parks" means all land in the counties of Glengarry, Stormont, Dundas, Grenville, Frontenac, Lennox and Addington, and Leeds vested in or placed under the control of the Commission, including highways, roads and boulevards and any interest in land. R.S.O. 1960, c. 279, s. 1; 1964, c. 84, s. 2.

2.—(1) The St. Lawrence Parks Commission is continued as a corporation without share capital, and shall be composed of not fewer than three and not more than fifteen members appointed by the Lieutenant in Council. 1962-63, c. 98, s. 1, *part*; 1964, c. 84, s. 3, *amended*. Commission continued

(2) The Lieutenant Governor in Council shall designate one member as chairman and may designate one member as vice-chairman. Chairman, vice-chairman

(3) The chairman and the vice-chairman, if any, shall be paid such salary as is fixed by the Lieutenant Governor in Council. Remuneration of chairman and vice-chairman

(4) In case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, the vice-chairman or, if none, such member of the Commission as the Commission designates for such purpose shall act as and have all the powers of the chairman. 1962-63, c. 98, s. 1, *part*. Acting chairman

(5) Vacancies in the membership of the Commission may be filled by the Lieutenant Governor in Council. Vacancies

(6) Notwithstanding *The Legislative Assembly Act*, any member of the Assembly may be appointed as a member of the Commission and be entitled to act as such without thereby vacating or forfeiting his seat or incurring any other penalty for sitting or voting as a member of the Assembly. Members of Assembly R.S.O. 1970, c. 240

Quorum

(7) The powers of the Commission may be exercised by a majority of the members. R.S.O. 1960, c. 279, s. 2 (5-7).

Staff

3.—(1) The Lieutenant Governor in Council may appoint such officers, clerks or other employees as may be necessary for the purposes of the Commission and shall fix their salaries, wages or other remuneration.

Idem
R.S.O. 1970, c. 386

(2) All such officers, clerks or other employees so appointed are subject to *The Public Service Act* and are civil servants within the meaning of that Act. R.S.O. 1960, c. 279, s. 4.

Expenses

4. All expenditures, costs, charges and expenses incurred and payable in respect of the carrying out of this Act, including the salaries and expenses of the members of the Commission and of the officers, clerks and other employees thereof and including all capital expenditures authorized by the Lieutenant Governor in Council, shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 279, s. 5.

General powers and duties

5.—(1) It is the duty of the Commission to develop, control, manage, operate and maintain the Parks and for the purposes of carrying out such duty the Commission has power,

(*a*) to make such by-laws, rules and orders as may be considered expedient for the constitution of the Commission and the administration and management of its affairs and the conduct of its business;

(*b*) to acquire, construct, operate, maintain and generally manage and provide recreational facilities, restaurants, refreshment booths, stands for the sale of souvenirs and other wares, shops, sanitary and toilet facilities, buses and other vehicles for use in connection with the Parks, boats and boat lines, camp sites and any and all other facilities or conveniences incidental to or necessary for the proper operation and maintenance of the Parks;

(*c*) to make agreements with persons with respect to the establishment or operation by them of any works or services in connection with the Parks;

(*d*) to operate and maintain a school for the training of apprentice gardeners;

(*e*) to receive and take from any person by grant, gift, devise, bequest or otherwise any property real or personal or any interest therein.

General power to investigate matters upon request of Minister, municipality or inhabitant

(2) It is the duty of the Commission to investigate and inquire into any matter or subject affecting or incidental to the welfare of the municipalities in the counties of Glengarry, Stormont, Dundas, Grenville, Frontenac, Lennox and Addington, and Leeds, or any of them, or the inhabitants thereof as may be referred to the

Commission by a member of the Executive Council or any such municipality or inhabitant, and the Commission may report thereon to such member, municipality or inhabitant or any of them. R.S.O. 1960, c. 279, s. 6.

Qualified powers

6. With the approval of the Lieutenant Governor in Council, the Commission has power,

(*a*) to acquire by purchase, lease or otherwise and with or without the consent of the owner enter upon, take and expropriate and sell or otherwise dispose of any land or any interest in land;

(*b*) to construct or acquire by purchase, lease or otherwise and operate and maintain bridges over the St. Lawrence River. R.S.O. 1960, c. 279, s. 7.

Expropriation R.S.O. 1970, c. 393

7.—(1) The Commission in the exercise of its powers to take land compulsorily has all the powers conferred by *The Public Works Act* on the Minister of Public Works in relation to a public work, and in the application of this section where the words "the Minister", "the Department" or "the Crown" appear in such Act they, where the context permits, mean the Commission, and the taking of such land by the Commission shall be deemed to be for the public purposes of Ontario. R.S.O. 1960, c. 279, s. 8 (1).

Procedure R.S.O. 1970, c. 154

(2) The Commission shall proceed in the manner provided by *The Expropriations Act* and all the provisions of that Act apply. R.S.O. 1960, c. 279, s. 8 (2), *amended*.

Highways

8.—(1) Notwithstanding any general or special Act, the Lieutenant Governor in Council may from time to time vest any highway,

(*a*) under the jurisdiction and control of the Department of Highways; or

(*b*) under the jurisdiction of a municipality,

in the Commission and thereafter the Commission has exclusive jurisdiction over the highway.

Agreements

(2) The Commission and the Minister of Highways or the Commission and any municipality may enter into agreement as to the acquisition by the Commission or by the municipality of any highway or any land therefor or as to the establishing, laying out, opening, grading, paving, altering, constructing, reconstructing, maintaining or repairing of any highway, including the cost or the apportionment of the cost of the same and the payment thereof.

Liability

(3) Where by an agreement made under subsection 2,

(*a*) the Minister of Highways undertakes to maintain and repair a highway, section 30 of *The Highway Improvement Act* applies in respect of the highway; and R.S.O. 1970, c. 201

R.S.O. 1970, c. 284

(*b*) a municipality undertakes to maintain and repair a highway, section 427 of *The Municipal Act* applies in respect of the highway,

and no action arising out of the duty to maintain and repair the highway lies against the Commission.

Indemnity

(4) Where the Crown or a municipal corporation is liable for damages sustained by any person by reason of failure to maintain or repair a highway under the jurisdiction of the Commission, the Commission shall indemnify the Crown or the municipal corporation, as the case may be, for all damages and costs incurred in respect of such liability.

Application of R.S.O. 1970, cc. 202, 283

(5) *The Highway Traffic Act* and *The Motorized Snow Vehicles Act* and the regulations made thereunder apply to any highway or portion thereof under the jurisdiction of the Commission and designated under subsection 1 of section 9 as if such highway or portion thereof is the King's Highway. 1968-69, c. 121, s. 1.

Controlled-access highways

9.—(1) The Lieutenant Governor in Council may designate any portion of any of the highways, roads, boulevards or parkways of the Commission as a controlled-access highway. R.S.O. 1960, c. 279, s. 10 (1).

Application of R.S.O. 1970, c. 201, s. 35

(2) Section 35 of *The Highway Improvement Act* applies *mutatis mutandis* to any portion of any of the highways, roads, boulevards or parkways designated under subsection 1 and for such purpose any reference in the said section 35 to Minister or Department shall be deemed to be a reference to the Commission. 1968-69, c. 121, s. 2.

Scenic areas

10.—(1) The Lieutenant Governor in Council may by regulation designate as a scenic area such land in the vicinity of any highway designated under subsection 1 of section 9 as is specified in the regulation.

Restricted areas

R.S.O. 1970, c. 349

(2) Subject to the approval of the Lieutenant Governor in Council, the Commission may, in respect of land within a scenic area, by regulation, exercise any of the powers conferred upon councils of municipalities by section 35 of *The Planning Act* without the approval of the Ontario Municipal Board.

Conflict of regulations and by-laws

(3) In the event of conflict between a regulation made under subsection 2 by the Commission and a by-law passed under section 35 of *The Planning Act*, or a predecessor thereof, by the municipality in which the land is situate, the regulation made by the Commission prevails to the extent of such conflict, but in all other respects the by-law passed by the municipality remains in full force and effect. 1968-69, c. 121, s. 3.

Local improvement works

11.—(1) The Commission may enter into agreement with any municipality within which any lands of the Commission are situate or that adjoins or is within three miles of the lands of the Commission as to any work of any of the characters or descriptions mentioned in *The Local Improvement Act*, and the Commission may agree to contribute any sum towards the cost of any work undertaken, either in cash or by annual or other instalments or otherwise, but the Commission is not liable in any way for assessment under *The Local Improvement Act* for the cost of any such work, whether the lands abut directly on the work or otherwise.

R.S.O. 1970, c. 255

Idem

(2) It is not necessary to submit any agreement entered into under this section for the assent of the electors of the municipality, nor is it necessary to receive the assent of the electors of the municipality for the issue of debentures to defray the cost of the work undertaken under any such agreement. R.S.O. 1960, c. 279, s. 11.

Lands exempt from taxation

12. All lands of the Commission wherever situate are exempt from assessment or taxation by any municipality. R.S.O. 1960, c. 279, s. 12.

Books of account

13. The Commission shall cause books to be kept and true and regular accounts to be entered therein of all moneys received and paid and of the several purposes for which the same were received and paid, and such books shall be open to the inspection of any member of the Commission, the Treasurer of Ontario or any person appointed by the Commission or Treasurer for that purpose, and any such person may make copies of or take extracts from the books. R.S.O. 1960, c. 279, s. 13.

Security by officers

14. Every person who is entrusted by the Commission with the custody or control of money in the course of his employment shall give security in the manner and form provided by *The Public Officers Act*. R.S.O. 1960, c. 279, s. 14.

R.S.O. 1970, c. 382

Audit

15. The books and records of the Commission shall be examined annually by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council may designate. R.S.O. 1960, c. 279, s. 15.

Lost, mislaid or abandoned property

16.—(1) Any lost, mislaid or abandoned property coming into the custody of an officer or employee of the Commission and not claimed by the owner within three months is the property of the Crown in right of Ontario and may be sold under the direction of the Minister, but, where any such property is perishable or has no commercial value, it may be given to a charitable institution or destroyed.

Idem

(2) Where a person establishes to the satisfaction of the Minister within one year of the date of sale that he was the owner of property sold under subsection 1, the Minister may direct the payment to such person of an amount equal to the price received for the property less the costs referrable to the sale and other expenses incurred in connection with the property. 1966, c. 147, s. 1.

Annual report

17.—(1) The Commission shall file a report annually with the Minister containing such information as the Minister may require.

Tabling

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1960-61, c. 70, s. 1.

Regulations

18.—(1) The Commission, with the approval of the Lieutenant Governor in Council, may make regulations,

(*a*) regulating and governing the use by the public of the Parks and the works, vehicles, boats, services and things under the jurisdiction of the Commission;

(*b*) providing for the protection and preservation from damage of the property of the Commission;

(*c*) prescribing tolls for the occupation and use of Park lands and works, vehicles, boats, recreational facilities and services under the jurisdiction of the Commission, for opening and closing graves or any class thereof in any cemetery in the Parks, and for entrance to places of historical and scenic interest or any other occupation or uses of a similar nature;

(*d*) prescribing permits designating privileges in connection with the use of the Parks or any part thereof and prescribing fees for such permits;

(*e*) regulating and governing vehicular and pedestrian traffic in the Parks or any part thereof and prohibiting the use of any class or classes of vehicles in the Parks or any part thereof;

(*f*) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices in the Parks;

(*g*) licensing, regulating and governing taxi-cabs and other vehicles for hire and the owners and drivers thereof, and prescribing fees for such licences;

(*h*) licensing, regulating and governing guides and prescribing fees for such licences;

(*i*) prescribing terms and conditions under which horses, dogs and other animals may be allowed in the Parks or any part thereof;

(*j*) for imposing fines not exceeding $100 for any breach of any regulation;

(*k*) for such purposes and objects as are deemed necessary for the carrying out of this Act. R.S.O. 1960, c. 279, s. 17 (1); 1968-69, c. 121, s. 4 (1).

Idem

(2) Any regulation made under subsection 1 may be general or particular in its application. 1968-69, c. 121, s. 4 (2).

Offence R.S.O. 1970, c. 450

(3) An offence against a regulation made under this Act is punishable under *The Summary Convictions Act*. R.S.O. 1960, c. 279, s. 17 (2), *amended*.

Rights of interment not affected

19. Nothing in this Act authorizes the interference with any right to inter the body of any deceased person in any burying ground vested in the Commission and nothing in this Act confers the right to remove any body there interred. R.S.O. 1960, c. 279, s. 18.

R.S.O. 1970, c. 89 not applicable

20. *The Corporations Act* does not apply to the Commission. R.S.O. 1960, c. 279, s. 19.

CHAPTER 448

The Stock Yards Act

Interpretation

1. In this Act,

(*a*) "Board" means the Ontario Stock Yards Board;

(*b*) "land" includes any estate, term, easement, right or interest in, to, over or affecting land;

(*c*) "manager" means the manager appointed under this Act;

(*d*) "Minister" means the Minister of Agriculture and Food;

(*e*) "regulations" means the regulations made under this Act;

(*f*) "securities" includes bonds, debentures and promissory notes. R.S.O. 1960, c. 385, s. 1, *amended*.

Ontario Stock Yards Board

2.—(1) The Ontario Stock Yards Board heretofore constituted is continued as a body corporate.

Seal

(2) The Board shall have a corporate seal in the form prescribed in the regulations. R.S.O. 1960, c. 385, s. 2 (1, 2).

Members of Board

(3) The Board shall consist of not more than nine persons appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 385, s. 2 (3); 1970, c. 122, s. 1.

Chairman, vice-chairman

(4) The Lieutenant Governor in Council may appoint one of the members of the Board to be chairman and one of the members to be vice-chairman.

Quorum

(5) A majority of the members of the Board constitutes a quorum. R.S.O. 1960, c. 385, s. 2 (4, 5).

Allowances and expenses

(6) The members of the Board shall receive such fees and expenses as the Lieutenant Governor in Council may determine, and any member of the Board who is charged with the performance of any special services may be paid such additional remuneration therefor as the Lieutenant Governor in Council may determine. R.S.O. 1960, c. 385, s. 2 (4-6).

Officers

3.—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may appoint a manager of any stock yard that it operates and such officers as are prescribed in the regulations and fix their remuneration, and the appointment of any person as

a manager or other officer does not disqualify him from acting as chairman, vice-chairman or a member of the Board.

Employees

(2) Subject to the approval of the Board, the manager of a stock yard may appoint such employees as he considers necessary and fix their salaries or other remuneration. R.S.O. 1960, c. 385, s. 3.

Objects

4.—(1) The objects of the Board are,

(*a*) to acquire, construct, equip and operate live-stock markets, and to acquire and operate such facilities for the transportation of live stock as may be necessary for the purposes of such markets; and

(*b*) to do such other acts as may be necessary or expedient for the carrying out of its operations and undertakings.

Power to borrow money and issue securities

(2) The Board has power to borrow money and to issue securities for the purpose of carrying out any of its objects and to make such securities payable as to principal and interest at such time or times and in such manner and at such place or places as the Board may determine.

General powers R.S.O. 1970, c. 89

(3) The Board has the powers set out in sections 24 and 305 of *The Corporations Act*. R.S.O. 1960, c. 385, s. 4.

Acquiring land, etc.

5.—(1) Subject to the approval of the Lieutenant Governor in Council, the Board,

(*a*) has power to acquire by purchase, lease or in any other manner or without the consent of the owner thereof to enter upon, take possession of, expropriate and use,

(i) the land, property, assets and undertakings of Union Stock Yards of Toronto, Limited,

(ii) the land, property, assets and undertakings of any other stock yards, and

(iii) any other land or property that it considers necessary for its undertakings; and

(*b*) has and may exercise and enjoy in addition to the powers conferred by this Act, all the powers conferred upon the Minister of Public Works in relation to a public work by *The Public Works Act* and in the application of this section where the words "the Minister", "the Department" or "the Crown" appear in such Act, they, where the context permits, mean the Board.

R.S.O. 1970, c. 393

Procedure

(2) The Board shall, in the exercise of its compulsory powers authorized by this section, proceed in the manner provided by *The Expropriations Act* and all the provisions of that Act apply.

R.S.O. 1970, c. 154

Exercise of powers not to be enjoined

(3) No action or proceeding of the Board taken pursuant to this section shall be restrained by injunction or process or proceeding in any court. R.S.O. 1960, c. 385, s. 5, *amended*.

Guarantee by Province

6.—(1) The Lieutenant Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Board, and repayment of any advances made by banks to the Board and the payment of any other indebtedness incurred by the Board.

Form of guarantee

(2) The form of any such guarantee and the manner of its execution shall be determined by the Lieutenant Governor in Council. R.S.O. 1960, c. 385, s. 6.

Application of moneys

7.—(1) All moneys received by the Board from the operation of its undertakings or otherwise shall be applied to,

(*a*) operating expenses;

(*b*) payment of interest on indebtedness; and

(*c*) repayment of principal moneys borrowed.

Surplus moneys

(2) Any surplus moneys shall be paid to the Treasurer of Ontario and deposited in the Consolidated Revenue Fund, and shall constitute a fund known as the Live-stock Improvement Fund appearing on the books of the Treasurer of Ontario as the Live-stock Improvement Fund.

Payments out of Fund

(3) The Live-stock Improvement Fund is available for the purposes of the improvement of live stock and for such purpose the Minister may, with the approval of the Lieutenant Governor in Council, direct payment out of the Fund of such amounts to such persons or organizations as he considers proper. R.S.O. 1960, c. 385, s. 7.

Annual report of Board

8. The Board shall, not later than the 31st day of January in every year, make an annual report to the Minister upon its operations during the preceding year and such report shall be laid before the Assembly as soon as may be. R.S.O. 1960, c. 385, s. 8.

Audit

9. The books and accounts of the Board shall be audited and checked from time to time by the Provincial Auditor or such other auditor as the Lieutenant Governor in Council designates and the auditor shall make an annual report to the Treasurer of Ontario. R.S.O. 1960, c. 385, s. 9.

Authority to sue and be sued

10. The Board may be sued and may institute or defend proceedings in any court. R.S.O. 1960, c. 385, s. 10.

Taxation

11. The real and personal property, business and income of the Board are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature. R.S.O. 1960, c. 385, s. 11.

Operation of stock yards

12. No person, other than the Board, shall construct, maintain or operate any stock yard or any premises where live stock is

assembled for the purpose of sale either directly or indirectly to an abattoir, packing house or slaughter house except with the approval of the Board, but this section does not apply to any such stock yard or premises that was so operated on the 12th day of May, 1944, so long as such stock yard or premises is not extended or enlarged. R.S.O. 1960, c. 385, s. 12.

Regulations

13. Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

(*a*) prescribing the officers of the Board and prescribing the powers and duties of such officers and of any manager;

(*b*) prescribing the form of the seal of the Board;

(*c*) limiting or regulating the objects and powers of the Board or the exercise thereof;

(*d*) prescribing the records, books and accounts to be kept by the Board;

(*e*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 385, s. 13.

CHAPTER 449

The Succession Duty Act

1. In this Act, Interpretation

(*a*) "aggregate value" means,

(i) the value at the date of death of the deceased of the property wherever situate passing on his death, and

(ii) the value of all dispositions wherever made, where such dispositions are made on or after the 1st day of July, 1892,

less the debts, encumbrances and other allowances authorized by subsection 6 of section 3 and less the exemptions authorized by section 5;

(*b*) "beneficial interest" includes any ownership and any interest other than that of a trustee or executor, and any expression of like import has a like meaning;

(*c*) "business" means a partnership, firm, syndicate or other unincorporated organization; R.S.O. 1960, c. 386, s. 1, cls. (*a-c*).

(*d*) "child" means,

(i) a legitimate child of the deceased,

(ii) a person adopted by the deceased,

(iii) a person to whom the deceased or the spouse of the deceased stood *in loco parentis* during the infancy of such person, and the deceased while married to such spouse shall be deemed to have stood *in loco parentis* to a legitimate child of such spouse and to a person adopted by such spouse, or

(iv) a legitimate lineal descendant of any person defined in subclause i, ii or iii; R.S.O. 1960, c. 386, s. 1, cl. (*d*); 1964, c. 112, s. 1.

(*e*) "common law wife" means a woman who establishes to the satisfaction of the Minister that she had, for a number of years immediately prior to the death of the deceased with whom she had been residing, been publicly represented by the deceased as his wife, and "common law husband" has a corresponding meaning; 1970, c. 51, s. 1 (1).

(*f*) "company" means a corporation or other incorporated organization; R.S.O. 1960, c. 386, s. 1, cl. (*e*).

(*g*) "disposition" means,

(i) any means whereby any property passes or is agreed to be passed, directly or indirectly, from the deceased during his lifetime to any person,

(ii) any means whereby any person is benefited, directly or indirectly, by any act of the deceased during the lifetime of the deceased,

(iii) any allocation, assignment, delivery, dispatching, giving, mailing, payment, release, sending, surrender, transfer or waiver of or any agreement to allocate, assign, deliver, dispatch, give, mail, pay, release, send, surrender, transfer or waive, during the lifetime of the deceased, any property of any business or company in which the interest of the deceased or his agent or nominee was at the time of such allocation, assignment, delivery, dispatching, giving, mailing, payment, release, sending, surrender, transfer, waiver or agreement, alone or added to that of any member of the family of the deceased, more than 50 per cent, directly or indirectly, of the whole, or any property of any business or company in which the interest of any such first-mentioned business or company was more than 50 per cent, directly or indirectly, of the whole,

(iv) any issuing of, or any agreement to issue, shares out of treasury, during the lifetime of the deceased, of any company in which the interest of the deceased or his agent or nominee was at the time of issuing or agreement, alone or added to that of any member of the family of the deceased, more than 50 per cent, directly or indirectly, of the whole, or shares out of treasury of any company in which the interest of any such first-mentioned company was more than 50 per cent, directly or indirectly, of the whole,

(v) any payment during the lifetime of the deceased to any person as a result of the creation of a trust by the deceased, except of such portion of the income paid to such person which is in the same ratio to all the income paid to such person that the amount of the value of the property which by the terms of the trust is or will be paid or transferred to or for the benefit of such person bears to the amount of the value of all the property,

(vi) any payment to or enjoyment by any person during the lifetime of the deceased as a result of any assignment, giving, release, surrender, transfer or waiver of or agreement to assign, give, release, surrender, transfer or waive by the deceased, any right to receive payment of any annuity or income

or the right to enjoy any estate or interest for life or term of years, or

(vii) any payment during the lifetime of the deceased to any person as a result of any arrangement effected by the deceased in his lifetime for any annuity, income or other periodic payment, exclusive of the payment of any income derived from any property in which such person had the beneficial interest,

without consideration in money or money's worth or for partial consideration in money or money's worth to the extent by which the value of the property or benefit exceeds the value of such partial consideration, and such means includes,

(viii) any assignment, delivery, dispatching, giving, mailing, payment, release, sending, surrender, transfer or waiver of any property,

(ix) any agreement to assign, deliver, dispatch, give, mail, pay, release, send, surrender, transfer or waive any property,

(x) any creation of trust, and

(xi) any contribution of any property of the deceased to a joint tenancy where the deceased is one of the joint tenants, to the extent of the value of the property or part of the property taken or converted during the lifetime of the deceased by any of the other joint tenants for the use or benefit of such other joint tenant,

provided that marriage shall not be deemed to constitute consideration for any disposition; R.S.O. 1960, c. 386, s. 1, cl. (*f*); 1962-63, c. 135, s. 1.

(*h*) "dutiable value" of any property situate in Ontario passing on the death of the deceased, "dutiable value" of a transmission, or "dutiable value" of a disposition made in Ontario, means, respectively, the value of such property at the date of death of the deceased, the value of such transmission, and the value of such disposition, after allowance has been made for the debts, encumbrances and other allowances authorized by and in accordance with subsection 6 of section 3;

(*i*) "executor" includes administrator and administrator with the will annexed;

(*j*) "interest in expectancy" includes an estate, income or interest, in remainder or reversion and any other future interest whether vested or contingent, but does not include a reversion expectant upon the determination of a lease; R.S.O. 1960, c. 386, s. 1, cls. (*g-i*).

(*k*) "member of the family" and any expression of like import means,

(i) a child,

(ii) a son-in-law or daughter-in-law of the deceased,

R.S.O. 1970, c. 64

(iii) a person adopted under *The Child Welfare Act* by the deceased or the spouse of any lawful descendant of such person,

(iv) the spouse of the deceased,

(v) the father, mother or any brother or sister of the deceased or any lawful descendant of any such brother or sister,

(vi) any brother or sister of the father or mother of the deceased or any lawful descendant of any such brother or sister,

(vii) the father, mother or any brother or sister of the spouse of the deceased or any lawful descendant of any such brother or sister, or

(viii) any grandfather or grandmother of the deceased; R.S.O. 1960, c. 386, s. 1, cl. (*j*); 1970, c. 51, s. 1 (2, 3).

(*l*) "Minister" means the Minister of Revenue; 1970, c. 51, s. 1 (4).

(*m*) "money" includes a bill of exchange, cheque, deposit receipt, interest coupon, money order, promissory note and any other like instrument;

(*n*) "passing on the death" means passing either immediately on the death or after an interval, either certainly or contingently and either originally or by way of substitutive limitation;

(*o*) "person to whom a disposition is made" and any expression of like import means person who benefits by a disposition;

(*p*) "person to whom there is a transmission" and any expression of like import means a person who benefits by a transmission;

(*q*) "property in respect of which a disposition is made" and any expression of like import includes any property into which such property has become directly or indirectly converted and any property which, exclusive of income, has been derived from such property; R.S.O. 1960, c. 386, s. 1, cls. (*k-o*).

(*r*) "property passing on the death of the deceased" includes,

(i) any property held jointly by the deceased and one or more persons and payable to or passing to the survivor or survivors, except that part of such

property that, is shown to the satisfaction of the Minister to have been contributed by the survivor or survivors, provided that where the joint tenancy or holding is created by a person other than the deceased and the survivor or survivors, such property shall be deemed to have been contributed to equally by the deceased and the survivor or equally by the deceased and each of the survivors,

(ii) any annuity, income or other interest purchased or in any manner provided by the deceased either by himself alone or in concert or by arrangement with any other person to the extent of the interest therein accruing or arising on the death of the deceased,

(iii) any superannuation, pension or death benefit payable or granted out of or under any fund or plan established for the payment of superannuation, pension or death benefits to recipients on or after the death of the deceased in respect of such death,

(iv) any property disposed of by any person on or after the death of the deceased under the terms of any agreement made by the deceased for valuable consideration given by him providing for the disposal of such property on or after his death, whether or not such agreement is or was enforceable according to its terms by the person to whom such property was so disposed,

(v) that portion of the money payable as a result of the death of the deceased under a contract of insurance as is in the same ratio to the whole that the amount of the premiums paid by the deceased on such contract bears to the total amount of the premiums paid, and any premiums or a part thereof paid for, on behalf of or in respect of the deceased by any business or company by which he was employed or with which he was associated or in which he was interested, other than under a contract in respect of which subclause vii applies, shall be deemed to have been paid by the deceased,

(vi) the interest of the deceased in a contract of insurance that provides for the payment of money as a result of the death of a person other than the deceased,

(vii) any money payable as the result of the death of the deceased under a contract of insurance to any business or company by which the deceased was employed or with which he was associated or in which he was interested or to any other person at the direction of any such business or company, to

the extent of any part of such money not paid to or paid to and not thenceforward retained by such business or company for its own use and benefit,

(viii) that portion of the interest of any business or company mentioned in subclause vii in a contract of insurance that provides for the payment of money as a result of the death of a person other than the deceased, which is paid to any member of the family of the deceased,

(ix) any property over which the deceased had at the time of his death a general power of appointment either by instrument *inter vivos* or by will or both, including the powers exercisable by a tenant in tail whether in possession or not, but exclusive of any power exercisable in a fiduciary capacity not created by the deceased, or as mortgagee, and whether or not concurrence of any other person is required, and provided that money that the deceased has a general power to charge on property shall be deemed to be property of which he has the power to dispose,

(x) any property passing under any past or future settlement, including any trust, whether expressed in writing or otherwise and if contained in a deed or other instrument effecting the settlement, whether such deed or other instrument was made for valuable consideration or not, as between the settlor and any other person, made by deed or other instrument not taking effect as a will, whereby an interest in such property or the proceeds of sale thereof for life, or any other period determinable by reference to death, is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right by the exercise of any power to restore to himself, or to reclaim the absolute interest in such property, or the proceeds of sale thereof, or to otherwise resettle the same or any part thereof,

(xi) any property in respect of which a disposition is made in Ontario on or after the 1st day of July, 1892, to any person who is not resident in Ontario at the date of death of the deceased, that at the date of death of the deceased was situate in Ontario and was owned by the person to whom such disposition is made or by a business or company in which such person was interested directly or indirectly and to which such person has transferred such property without full consideration in money or money's worth,

(xii) any property in respect of which a disposition is made outside Ontario on or after the 1st day of July, 1892, that at the date of death of the deceased was situate in Ontario and was owned by the person to whom such disposition is made or by a business or company in which such person was interested directly or indirectly and to which such person has transferred such property without full consideration in money or money's worth, and where the deceased was domiciled in Ontario at the time the disposition was made and at the date of his death,

(xiii) any right, interest or estate in dower or by curtesy to which the spouse of the deceased may be entitled,

(xiv) any right that any person had at the time of death of the deceased under an agreement made by the deceased during his lifetime whereby such person agreed to purchase after the death of the deceased any property of the deceased or any property over which the deceased had any means of control, at a fixed price or at a price to be fixed, where the value of the consideration for the agreement to purchase, including the price so fixed, is less than the value, at the time of the agreement and at the date of death of the deceased, of the property, and

(xv) any right that any person had at the time of death of the deceased under an agreement made by the deceased during his lifetime, to exercise after the death of the deceased, an option to purchase any property of the deceased or any property over which the deceased had any means of control, at a fixed price or at a price to be fixed, where the value of the consideration for the purchase of the property, including the price so fixed, is less than the value, at the date of death of the deceased, of the property; R.S.O. 1960, c. 386, s. 1, cl. (*p*); 1965, c. 126, s. 1 (1-3); 1970, c. 51, s. 1 (5, 6).

(*s*) "registered retirement savings plan" means a retirement savings plan registered under the *Income Tax Act* (Canada); 1965, c. 126, s. 1 (4). R.S.C. 1952, c. 148

(*t*) "regulations" means the regulations made under this Act;

(*u*) "security" includes bonds, debentures, guaranteed investments, shares, stocks, rights to subscribe for or purchase shares or stocks, rights to royalties, syndicate units and anything designated as a security by the regulations; R.S.O. 1960, c. 386, s. 1, cls. (*q*, *r*).

(*v*) "spouse" includes a common law wife or common law husband; 1970, c. 51, s. 1 (7).

(*w*) "transmission" means the passing on the death of any person domiciled in Ontario to any person resident or domiciled in Ontario at the date of death of the deceased of any personal property situate outside Ontario at the date of such death including such of the personal property mentioned in subclauses i to x, xiv and xv of clause *r* as is situate outside Ontario at such date; R.S.O. 1960, c. 386, s. 1, cl. (*s*).

(*x*) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 386, s. 1, cl. (*t*), *amended*.

Property passing on the death of deceased, meaning

2. For the purposes of this Act, the property mentioned in subclauses i to xv of clause *r* of section 1 shall be deemed to pass on the death of the deceased and accordingly shall be deemed to be property passing on the death of the deceased or that passes on his death in addition to any other property passing on the death of the deceased or that passes on his death. R.S.O. 1960, c. 386, s. 2.

Values

3.—(1) For the purposes of this Act,

(*a*) the value of any security that is listed on any stock exchange, or if not so listed, on which a price or quotation is obtainable from financial journals, recognized financial reports or registered brokers, is the closing price or quotation of such security on the day as of which such value is to be determined, or if there is no closing price or quotation on such day, then on the last preceding day on which there is a closing price or quotation, provided that this clause does not apply where there is not a sufficiently widespread distribution of the securities of which such security forms a part to reflect the true value thereof in such price or quotation, or where such price or quotation is or may be the result of any manipulation or any exercise of any means of influence or control;

(*b*) the value of a disposition is the value at the date of death of the deceased of the property in respect of which such disposition is made, provided that,

(i) if such property has been sold for or converted into money during the lifetime of the deceased, the amount of such money is the value of such disposition,

(ii) if the disposition is of money, the amount of such money is the value of such disposition,

(iii) if the disposition is a remission of a debt, the

amount of such debt at the date of such remission is the value of such disposition, and

(iv) if the disposition is a disposition of the right to enjoy as mentioned in subclause vi of clause *g* of section 1, the value of such right as at the date of such disposition is the value of such disposition;

(*c*) the value of a transmission is the value at the date of death of the deceased of the property in respect of which there is a transmission;

(*d*) the value of the right mentioned in subclause xiv of clause *r* of section 1 is an amount equal to the difference between the value of the consideration for the agreement to purchase, including the price so fixed, and the value of the property at the date of death of the deceased, and where the value of the property has varied between the time of the agreement and the date of death of the deceased, the value of the consideration shall be deemed to vary in like proportion; and

(*e*) the value of the right mentioned in subclause xv of clause *r* of section 1 is an amount equal to the difference between the value of the property at the date of death of the deceased and the value of the consideration for the purchase of the property, including the price so fixed.

Income tax

(2) In valuing any security, or any business or any interest in any business, the fact that any tax under the *Income Tax Act* (Canada) or any similar tax may be or become payable by reason of or in respect of the payment or distribution of any accumulated surplus or other property to the holder of such security or to any person having an interest in such business, shall not be taken into consideration, unless and to the extent only that such distribution is necessary and is made for the purpose of raising money for the payment of duty.

R.S.C. 1952, c. 148

Variance in value of property

(3) In valuing any property in respect of which a disposition is made,

(*a*) where such property was subject to encumbrance at the time such disposition was made and such encumbrance is in existence at the date of death of the deceased; or

(*b*) where there was partial consideration as mentioned in clause *g* of section 1,

and the value of such property has varied between the time such disposition was made and the date of such death, the value or amount of such encumbrance or the value or amount of such partial consideration shall be deemed to vary in like proportion.

Valuation of annuities, etc.

(4) Every annuity, term of years, life estate, income or other estate and any interest in expectancy shall be valued according to such rule, method and standard of mortality and of value and at

such rate of interest as the Lieutenant Governor in Council may determine. R.S.O. 1960, c. 386, s. 3 (1-4).

Reassessment in the event of death, etc., of annuitant within 4 years

(5) Where there has been included in computing the aggregate and dutiable value of the property passing on the death of the deceased an amount in respect of an income right, annuity, term of years, life or other similar estate or interest in expectancy, hereinafter in this subsection referred to as a "terminable interest", the value of which was ascertained in accordance with prescribed standards as to rate of interest and mortality of any person, and, at any time within four years after the death of the deceased, an event has occurred, whether the death or marriage of that person or otherwise, as a result of which that terminable interest has terminated, the Minister shall, upon application made to him within one year after the occurrence of that event, in any case where,

(*a*) the aggregate and dutiable value, otherwise determined under this Act, of the property passing on the death of the deceased,

exceeds,

(*b*) the amount that would be the aggregate and dutiable value of the property passing on the death of the deceased if the value of that terminable interest had been ascertained in accordance with a duration of life of that person that assumed the death of that person at the time of the occurrence of the event resulting in the termination of the interest,

reassess the duty payable under this Act in respect of the death of the deceased, as though the aggregate and dutiable value of the property passing on the death of the deceased were the amount determined under clause *b*. 1970, c. 51, s. 2 (1).

Aggregate value and dutiable value

(6) In determining aggregate value and in determining dutiable value, allowance shall be made for reasonable funeral expenses for the deceased, for debts and encumbrances incurred or created by the deceased *bona fide* and for full consideration in money or money's worth wholly for his own use and benefit, for surrogate court fees and for solicitor's fees for obtaining probate or letters of administration to an amount not exceeding $100, and all debts and encumbrances for which allowance is made shall be deducted from the value of the land or other subject of property liable thereto, but allowance shall not be made,

(*a*) for any debt in respect of which there is a right to reimbursement except such part thereof for which reimbursement cannot be obtained;

(*b*) more than once for the same debt or encumbrance charged upon different properties;

(*c*) save as aforesaid, for the expense of the administration

of the property or the execution of any trust created by the will of the deceased or by any instrument made by him during his lifetime;

(*d*) for any debt or encumbrance or any part thereof which by due process of law cannot be realized out of any property;

(*e*) for any wages, salaries or other remuneration due by the deceased to any member of his family, except such part of such wages, salaries or other remuneration as the Minister considers reasonable and proper;

(*f*) for any part of any debt not actually and *bona fide* paid or intended to be paid;

(*g*) for any debt not recoverable by reason of *The Limitations Act* or any other statute of limitations. R.S.O. 1960, c. 386, s. 3 (5); 1970, c. 51, s. 2 (2). R.S.O. 1970, c. 246

4. No duty shall be levied on, Where no duty to be levied

(*a*) any property situate in Ontario passing on the death of the deceased to any one person where the value of all the property so passing to such person does not exceed $500;

(*b*) any person to whom there is a transmission, with respect to such transmission, where the value of all transmissions to such person does not exceed $500;

(*c*) any person to whom a disposition is made, with respect to such disposition, where the value of all dispositions to such person does not exceed $500;

(*d*) any property situate in Ontario passing on the death of the deceased to any one person where such property consists wholly of an annuity not exceeding $100, or of an estate or interest for life or for a term in any property, the yearly income from which does not exceed $100;

(*e*) any person to whom there is a transmission, with respect to such transmission, where all the property in respect of which there are transmissions to such person consists wholly of an annuity not exceeding $100, or of an estate or interest for life or for a term in any property the yearly income from which does not exceed $100;

(*f*) any person to whom a disposition is made, with respect to such disposition, where all the property in respect of which dispositions to such person are made consists wholly of an annuity not exceeding $100, or of an estate or interest for life or for a term in any property the yearly income from which does not exceed $100;

(*g*) any property situate in Ontario passing on the death of the deceased to any one of the persons to whom subsection 6 of section 7 applies, such person to whom

there is a transmission and such person to whom any disposition is made, where the value of all such property, transmissions and dispositions does not exceed $1,000, provided such person was in the employ of the deceased for a period of at least five years immediately prior to the death of the deceased; or

(*h*) where the deceased was domiciled outside Ontario at the date of his death,

R.S.O. 1970, c. 224

(i) any interest of the deceased in any contract of insurance within the meaning of *The Insurance Act*,

(ii) any money payable as a result of the death of the deceased under any contract of insurance within the meaning of *The Insurance Act*,

(iii) any interest by way of annuity or otherwise accruing or arising on the death of the deceased under any contract of insurance within the meaning of *The Insurance Act*,

(iv) any interest of the deceased in any pension, savings, bonus, profit sharing, stock option, stock purchase, stock benefit, death benefit, retirement benefit, survivorship benefit, sickness benefit, accident benefit or disability benefit fund, plan or scheme of general application to employees of whom the deceased was one, or any fund, plan or scheme similar to any fund, plan or scheme heretofore mentioned in this subclause,

(v) any money or other property payable or transferable as a result of the death of the deceased out of any pension, savings, bonus, profit sharing, stock option, stock purchase, stock benefit, death benefit, retirement benefit, survivorship benefit, sickness benefit, accident benefit or disability benefit fund, plan or scheme of general application to employees of whom the deceased was one, or any fund, plan or scheme similar to any fund, plan or scheme heretofore mentioned in this subclause,

(vi) any interest by way of annuity or otherwise accruing or arising on the death of the deceased under any pension, savings, bonus, profit sharing, stock option, stock purchase, stock benefit, death benefit, retirement benefit, survivorship benefit, sickness benefit, accident benefit or disability benefit fund, plan or scheme of general application to employees of whom the deceased was one, or any fund, plan or scheme similar to any fund, plan or scheme heretofore mentioned in this subclause,

(vii) any interest of the deceased in any registered retirement savings plan,

(viii) any money or other property payable or transferable as a result of the death of the deceased out of any registered retirement savings plan,

(ix) any interest by way of annuity or otherwise accruing or arising on the death of the deceased under any registered retirement savings plan,

(x) any interest of the deceased in any investment fund maintained by a trust company in which moneys received in trust from not fewer than twenty-five persons are combined for the purpose of facilitating investment where the interest of the deceased in such fund does not exceed 10 per cent of the whole,

(xi) any money or other property payable or transferable as a result of the death of the deceased out of any investment fund maintained by a trust company in which moneys received in trust from not fewer than twenty-five persons are combined for the purpose of facilitating investment where the interest of the deceased in such fund does not exceed 10 per cent of the whole, or

(xii) any interest by way of annuity or otherwise accruing or arising on the death of the deceased under any investment fund maintained by a trust company in which moneys received in trust from not fewer than twenty-five persons are combined for the purpose of facilitating investment where the interest of the deceased in such fund does not exceed 10 per cent of the whole,

provided that,

(*i*) the total amount in respect of which no duty shall be levied under clauses *a*, *b* and *c* shall not exceed $500;

(*j*) the total amount in respect of which no duty shall be levied under clauses *d*, *e* and *f* shall not exceed an annuity or yearly income of $100; and

(*k*) where by reason of clauses *d*, *e* and *f* no duty is levied, clauses *a*, *b* and *c* do not apply. R.S.O. 1960, c. 386, s. 4; 1962-63, c. 135, s. 2; 1964, c. 112, s. 2; 1965, c. 126, s. 2.

Where no duty to be levied and what not to be included in aggregate value

5.—(1) No duty shall be levied on any of the following property, nor on any person to whom there are any transmissions of any of the following property, with respect to such transmissions, nor on any person to whom any of the following dispositions are made, with respect to such dispositions, and such property and dispositions shall not be included in the aggregate value nor included for the purpose of determining any rate of duty,

(*a*) any disposition for religious, charitable or educational

purposes to any religious, charitable or educational organization that carries on its work solely in Canada;

(*b*) any property devised or bequeathed by the deceased for religious, charitable or educational purposes to any religious, charitable or educational organization that carries on its work solely in Canada;

(*c*) any disposition for religious, charitable or educational purposes to any religious, charitable or educational organization that carries on its work both in and outside Canada to the extent of that portion in value of the property in respect of which the disposition is made as is in the same ratio to the whole that its expenditures for carrying on its work in Canada bear to its total expenditures during such period as the Minister may determine;

(*d*) that portion of any property devised or bequeathed by the deceased for religious, charitable or educational purposes to any religious, charitable or educational organization that carries on its work both in and outside Canada as is in the same ratio to the whole that its expenditures for carrying on its work in Canada bear to its total expenditures during such period as the Minister may determine;

(*e*) any property devised or bequeathed by the deceased to and any disposition to the Dominion of Canada, the Province of Ontario, any municipality in Ontario or any conservation authority under *The Conservation Authorities Act*;

R.S.O. 1970, c. 78

(*f*) any disposition for necessaries or education to or for any member of the family of the deceased where it is shown to the satisfaction of the Minister that such member was dependent in whole or in part on the deceased for such necessaries or education;

(*g*) any disposition where actual and *bona fide* enjoyment and possession of the property in respect of which the disposition is made, was assumed more than five years before the date of death of the deceased by the person to whom the disposition is made, or by a trustee for such person, and thenceforward retained to the entire exclusion of the deceased or of any benefit to him whether voluntary or by contract or otherwise;

(*h*) any non-commutable annuity, income or periodic payment effected in any manner other than by will or testamentary instrument and paid for by the deceased during his lifetime, and paid to or enjoyed by the spouse or dependent father or mother or any dependent brother, sister or child of the deceased after the death of the deceased, to the extent of $1,200 per annum with respect

to any one person and to the extent of $2,400 per annum in the aggregate;

(*i*) any property devised or bequeathed by the deceased to and any disposition to The Canadian National Institute for the Blind, The Canadian Red Cross Society or any patriotic organization or institution in Canada that receives the written approval of the Secretary of State of Canada; and

(*j*) any property passing on the death of the deceased to any religious, charitable or educational organization for religious, charitable or educational purposes carried out in any province of Canada other than Ontario which is shown to the satisfaction of the Minister to allow the same exemption on property, given, devised or bequeathed to any religious, charitable or educational organization for religious, charitable or educational purposes carried out in Ontario. R.S.O. 1960, c. 386, s. 5 (1); 1960-61, c. 95, s. 1; 1965, c. 126, s. 3 (1); 1970, c. 51, s. 3 (1-6).

Meaning of religious, charitable, educational

(2) For the purposes of subsection 1, the Minister may in his absolute discretion determine whether any purpose or organization is a religious, charitable or educational purpose or organization within the meaning of clause *a*, *b*, *c*, *d* or *j* of subsection 1. R.S.O. 1960, c. 386, s. 5 (2); 1970, c. 51, s. 3 (7).

What duty levied on

6. Subject to sections 4 and 5, on the death of any person whether he dies domiciled in Ontario or elsewhere,

(*a*) where any property situate in Ontario passes on his death, duty shall be levied on such property in accordance with the dutiable value thereof;

(*b*) where there is any transmission, duty shall be levied on the person to whom there is such transmission, with respect to such transmission, in accordance with the dutiable value thereof;

(*c*) where any disposition, other than of realty situate outside Ontario, is made in Ontario on or after the 1st day of July, 1892, to any person who is resident in Ontario at the date of death of the deceased, duty shall be levied on such person, with respect to such disposition, in accordance with the dutiable value thereof;

(*d*) where any disposition of any personal property is made outside Ontario on or after the 8th day of March, 1937, to any person who is resident in Ontario at the time such disposition is made and at the date of death of the deceased and the deceased was domiciled in Ontario at the time such disposition is made and at the date of his death, duty shall be levied on the person to whom such

disposition is made, with respect to such disposition, in accordance with the value thereof; but this clause does not apply if, at the date of death of the deceased, the property in respect of which the disposition is made was both situate in Ontario and was owned by the person to whom the disposition is made or by a business or company in which such person was interested directly or indirectly and to which such person has transferred such property without full consideration in money or money's worth. R.S.O. 1960, c. 386, s. 6.

Rates of duty, preferred

7.—(1) The duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of the father, mother, spouse or a grandfather, grandmother, child, son-in-law or daughter-in-law of the deceased, and the duty levied on the father, mother, spouse or a grandfather, grandmother, child, son-in-law or daughter-in-law of the deceased, shall be at the following rates:

Where the aggregate value,

(*a*) exceeds $50,000 and does not exceed $75,000—2½ per cent plus 4/100 of 1 per cent for each full $1,000 by which the aggregate value exceeds $50,000;

(*b*) exceeds $75,000 and does not exceed $100,000—3½ per cent plus 6/100 of 1 per cent for each full $1,000 by which the aggregate value exceeds $75,000;

(*c*) exceeds $100,000 and does not exceed $150,000—5 per cent plus 1/100 of 1 per cent for each full $1,000 by which the aggregate value exceeds $100,000;

(*d*) exceeds $150,000 and does not exceed $200,000—5½ per cent plus 1/100 of 1 per cent for each full $1,000 by which the aggregate value exceeds $150,000;

(*e*) exceeds $200,000 and does not exceed $300,000—6 per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $200,000;

(*f*) exceeds $300,000 and does not exceed $400,000—6½ per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $300,000;

(*g*) exceeds $400,000 and does not exceed $500,000—7 per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $400,000;

(*h*) exceeds $500,000 and does not exceed $600,000—7½ per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $500,000;

(*i*) exceeds $600,000 and does not exceed $700,000—8 per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $600,000;

(*j*) exceeds $700,000 and does not exceed $800,000—8½ per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $700,000;

(*k*) exceeds $800,000 and does not exceed $900,000—9 per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $800,000;

(*l*) exceeds $900,000 and does not exceed $1,000,000—9½ per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $900,000;

(*m*) exceeds $1,000,000 and does not exceed $5,000,000—10 per cent plus 1/100 of 1 per cent for each full $10,000 by which the aggregate value exceeds $1,000,000;

(*n*) exceeds $5,000,000—14 per cent,

and the duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of any one of such persons and the duty levied on such person, shall be at the following additional rates:

Where the amount of the value of all the property which so passes and of the value of all transmissions to and dispositions made to such person, after making allowance for the debts, encumbrances and other allowances authorized by and in accordance with subsection 6 of section 3,

(*aa*) exceeds $50,000 and does not exceed $75,000—1½ per cent plus 2/100 of 1 per cent for each full $1,000 by which the amount exceeds $50,000;

(*bb*) exceeds $75,000 and does not exceed $100,000—2 per cent plus 2/100 of 1 per cent for each full $1,000 by which the amount exceeds $75,000;

(*cc*) exceeds $100,000 and does not exceed $150,000—2½ per cent plus 1/100 of 1 per cent for each full $1,000 by which the amount exceeds $100,000;

(*dd*) exceeds $150,000 and does not exceed $300,000—3 per cent plus 1/100 of 1 per cent for each full $3,000 by which the amount exceeds $150,000;

(*ee*) exceeds $300,000 and does not exceed $400,000—3½ per cent plus 1/100 of 1 per cent for each full $1,000 by which the amount exceeds $300,000;

(*ff*) exceeds $400,000 and does not exceed $500,000—4½ per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $400,000;

(*gg*) exceeds $500,000 and does not exceed $600,000—5 per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $500,000;

(*hh*) exceeds $600,000 and does not exceed $700,000—5½ per

cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $600,000;

(*ii*) exceeds $700,000 and does not exceed $750,000—6 per cent plus 1/100 of 1 per cent for each full $1,000 by which the amount exceeds $700,000;

(*jj*) exceeds $750,000 and does not exceed $800,000—6½ per cent plus 1/100 of 1 per cent for each full $1,000 by which the amount exceeds $750,000;

(*kk*) exceeds $800,000 and does not exceed $900,000—7 per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $800,000;

(*ll*) exceeds $900,000 and does not exceed $1,000,000—7½ per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $900,000;

(*mm*) exceeds $1,000,000 and does not exceed $1,200,000—8 per cent plus 1/100 of 1 per cent for each full $4,000 by which the amount exceeds $1,000,000;

(*nn*) exceeds $1,200,000 and does not exceed $1,400,000—8½ per cent plus 1/100 of 1 per cent for each full $4,000 by which the amount exceeds $1,200,000;

(*oo*) exceeds $1,400,000 and does not exceed $1,600,000—9 per cent plus 1/100 of 1 per cent for each full $4,000 by which the amount exceeds $1,400,000;

(*pp*) exceeds $1,600,000 and does not exceed $1,800,000—9½ per cent plus 1/100 of 1 per cent for each full $4,000 by which the amount exceeds $1,600,000;

(*qq*) exceeds $1,800,000 and does not exceed $2,000,000—10 per cent plus 1/100 of 1 per cent for each full $4,000 by which the amount exceeds $1,800,000;

(*rr*) exceeds $2,000,000 and does not exceed $2,200,000—10½ per cent plus 1/100 of 1 per cent for each full $4,000 by which the amount exceeds $2,000,000;

(*ss*) exceeds $2,200,000 and does not exceed $2,400,000—11 per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $2,200,000;

(*tt*) exceeds $2,400,000 and does not exceed $2,600,000—12 per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $2,400,000;

(*uu*) exceeds $2,600,000 and does not exceed $2,800,000—13 per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $2,600,000;

(*vv*) exceeds $2,800,000 and does not exceed $3,000,000—14 per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $2,800,000; and

(*ww*) exceeds $3,000,000—15 per cent. R.S.O. 1960, c. 386, s. 7 (1); 1970, c. 51, s. 4 (1).

No duty to be levied on a dependant under certain circumstances

(2) Notwithstanding subsection 1, no duty shall be levied on any property situate in Ontario passing on the death of the deceased to or for the benefit of a dependant or on him,

(*a*) where the sum of the value of the property passing on the death of the deceased to or for the benefit of dependants and of the value of all dispositions to them, that do not come within clause *g* of subsection 1 of section 5, does not exceed the dependants' allowance; or

(*b*) where the sum of the value of the property passing on the death of the deceased to him or for his benefit and of the value of all dispositions to him, that do not come within clause *g* of subsection 1 of section 5, does not exceed the individual dependant allowance. R.S.O. 1960, c. 386, s. 7 (2).

Reduction in dependant's duty

(3) The duty levied on property passing on the death of the deceased to or for the benefit of a dependant and on him shall be reduced by an amount equal to the amount obtained by dividing the product of,

(*a*) the sum of the value of the property passing on the death of the deceased to him or for his benefit on which duty is levied and of the value of all transmissions to him and of the value of all dispositions in respect of which duty is levied on him; and

(*b*) the amount of his individual dependant reduction or of his increased individual dependant reduction, if the greater,

by the sum of the value of all the property passing on the death of the deceased to him or for his benefit, and of the value of all dispositions to him that do not come within clause *g* of subsection 1 of section 5. 1962-63, c. 135, s. 3 (1).

Duty levied on a dependant to be reduced-notch clause

(4) After the reduction provided for in subsection 3 is made, the duty levied on property passing on the death of the deceased to or for the benefit of a dependant and on him shall be reduced to an amount equal to one-half of,

(*a*) the portion of the amount by which the sum of the value of the property passing on the death of the deceased to or for the benefit of dependants and of the value of all dispositions to them, that do not come within clause *g* of subsection 1 of section 5, exceeds the dependants' allowance, as is in the same ratio to the whole that the duty levied on property passing to or for the benefit of such dependant and on him bears to the duty levied on property passing to or for the benefit of all dependants and on them; or

(*b*) the amount by which the sum of the value of the property passing on the death of the deceased to or for the benefit of such dependant and of all dispositions to him, that do not come within clause *g* of subsection 1 of section 5, exceeds the individual dependant allowance,

whichever is the lesser. R.S.O. 1960, c. 386, s. 7 (3); 1960-61, c. 95, s. 2; 1962-63, c. 135, s. 3 (2).

Rates of duty, collaterals

(5) The duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of a lineal ancestor of the deceased except the grandfather, grandmother, father or mother, or to or for the benefit of a brother or sister of the deceased or any descendant of any such brother or sister or a brother or sister of the father or mother of the deceased or any descendant of any such brother or sister, and the duty levied on a lineal ancestor of the deceased except the grandfather, grandmother, father or mother, or on a brother or sister of the deceased or any descendant of any such brother or sister, or on a brother or sister of the father or mother of the deceased or any descendant of any such brother or sister, shall be at the following rates:

Where the aggregate value,

(*a*) exceeds $20,000 and does not exceed $30,000—6 per cent plus 10/100 of 1 per cent for each full $1,000 by which the aggregate value exceeds $20,000;

(*b*) exceeds $30,000 and does not exceed $60,000—7 per cent plus 10/100 of 1 per cent for each full $1,000 by which the aggregate value exceeds $30,000;

(*c*) exceeds $60,000 and does not exceed $100,000—10 per cent plus 5/100 of 1 per cent for each full $1,000 by which the aggregate value exceeds $60,000;

(*d*) exceeds $100,000 and does not exceed $200,000—12 per cent plus 1/100 of 1 per cent for each full $1,000 by which the aggregate value exceeds $100,000;

(*e*) exceeds $200,000 and does not exceed $400,000—13 per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $200,000;

(*f*) exceeds $400,000 and does not exceed $600,000—14 per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $400,000;

(*g*) exceeds $600,000 and does not exceed $800,000—15 per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $600,000;

(*h*) exceeds $800,000 and does not exceed $1,000,000—16 per cent plus 1/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $800,000;

(*i*) exceeds $1,000,000—17 per cent,

and the duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of any one of such persons and the duty levied on such person, shall be at the following additional rates:

Where the amount of the value of all the property which so passes and of the value of all transmissions to and dispositions made to such person, after making allowance for the debts, encumbrances and other allowances authorized by and in accordance with subsection 6 of section 3,

(*aa*) exceeds $10,000 and does not exceed $60,000—2½ per cent plus 1/100 of 1 per cent for each full $1,000 by which the amount exceeds $10,000 whether or not the rate mentioned in clause *a* applies;

(*bb*) exceeds $60,000 and does not exceed $160,000—3 per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $60,000;

(*cc*) exceeds $160,000 and does not exceed $200,000—3½ per cent plus 5/100 of 1 per cent for each full $4,000 by which the amount exceeds $160,000;

(*dd*) exceeds $200,000 and does not exceed $300,000—4 per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $200,000;

(*ee*) exceeds $300,000 and does not exceed $350,000—4½ per cent plus 1/100 of 1 per cent for each full $1,000 by which the amount exceeds $300,000;

(*ff*) exceeds $350,000 and does not exceed $450,000—5 per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $350,000;

(*gg*) exceeds $450,000 and does not exceed $500,000—5½ per cent plus 1/100 of 1 per cent for each full $1,000 by which the amount exceeds $450,000;

(*hh*) exceeds $500,000 and does not exceed $600,000—6 per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $500,000;

(*ii*) exceeds $600,000 and does not exceed $700,000—6½ per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $600,000;

(*jj*) exceeds $700,000 and does not exceed $800,000—7 per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $700,000;

(*kk*) exceeds $800,000 and does not exceed $900,000—7½ per cent plus 1/100 of 1 per cent for each full $2,000 by which the amount exceeds $800,000;

(*ll*) exceeds $900,000 and does not exceed $1,000,000—8 per

cent plus 1/100 of 1 per cent for each full $1,000 by which the amount exceeds $900,000;

(*mm*) exceeds $1,000,000 and does not exceed $1,500,000—9 per cent plus 1/100 of 1 per cent for each full $5,000 by which the amount exceeds $1,000,000;

(*nn*) exceeds $1,500,000 and does not exceed $2,000,000—10 per cent plus 1/100 of 1 per cent for each full $5,000 by which the amount exceeds $1,500,000;

(*oo*) exceeds $2,000,000 and does not exceed $2,500,000—11 per cent plus 1/100 of 1 per cent for each full $5,000 by which the amount exceeds $2,000,000;

(*pp*) exceeds $2,500,000 and does not exceed $3,000,000—12 per cent plus 1/100 of 1 per cent for each full $5,000 by which the amount exceeds $2,500,000; and

(*qq*) exceeds $3,000,000—13 per cent. R.S.O. 1960, c. 386, s. 7 (4).

Rates of duty, strangers

(6) The duty levied by this Act on the proportion of the property passing on the death of the deceased to or for the benefit of any person other than those to whom subsections 1 and 5 apply, and the duty levied on any person other than those to whom subsection 1 and 5 apply, shall be at the following rates:

Where the aggregate value,

(*a*) exceeds $10,000 and does not exceed $50,000—12½ per cent plus 5/100 of 1 per cent for each full $800 by which the aggregate value exceeds $10,000;

(*b*) exceeds $50,000 and does not exceed $100,000—15 per cent plus 5/100 of 1 per cent for each full $1,000 by which the aggregate value exceeds $50,000;

(*c*) exceeds $100,000 and does not exceed $200,000—17½ per cent plus 5/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $100,000;

(*d*) exceeds $200,000 and does not exceed $300,000—20 per cent plus 5/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $200,000;

(*e*) exceeds $300,000 and does not exceed $400,000—22½ per cent plus 5/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $300,000;

(*f*) exceeds $400,000 and does not exceed $500,000—25 per cent plus 5/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $400,000;

(*g*) exceeds $500,000 and does not exceed $600,000—27½ per cent plus 5/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $500,000;

(*h*) exceeds $600,000 and does not exceed $700,000—30 per

cent plus 5/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $600,000;

(*i*) exceeds $700,000 and does not exceed $800,000—32½ per cent plus 5/100 of 1 per cent for each full $2,000 by which the aggregate value exceeds $700,000; and

(*j*) exceeds $800,000—35 per cent. R.S.O. 1960, c. 386, s. 7 (5); 1962-63, c. 135, s. 3 (3).

Surtax

(7) A surtax of 15 per cent of the amount ascertained according to subsection 1, of 20 per cent of the amount ascertained according to subsection 5 and of 25 per cent of the amount ascertained according to subsection 6, shall be levied, added to and paid with such respective amounts as duty. R.S.O. 1960, c. 386, s. 7 (6).

Reduction

(8) Where,

(*a*) any of the property to which clause *a* of section 1 applies passes to or for the benefit of any person or persons mentioned in subsection 1 and any of the dispositions to which clause *a* of section 1 applies are made to him or them; and

(*b*) duty is levied on the proportion of the property so passing to or for the benefit of such person or persons and on him or them and such duty is payable by him or them; and

(*c*) the amount of the duty levied on the proportion of such property so passing to or for the benefit of any one of such persons and on him is greater than an amount equal to one-half of the amount obtained by,

(i) multiplying the amount by which the aggregate value exceeds $50,000 by the sum of the amount of the value of such property so passing to him and of such dispositions made to him, and

(ii) dividing the product thereof by the aggregate value,

the amount of the duty mentioned in clause *c* shall be reduced to one-half of the amount obtained under subclauses i and ii of clause *c*. R.S.O. 1960, c. 386, s. 7 (7); 1962-63, c. 135, s. 3 (4).

Notch clause, collaterals

(9) Where,

(*a*) any of the property to which clause *a* of section 1 applies passes to or for the benefit of any person or persons mentioned in subsection 5 and any of the dispositions to which clause *a* of section 1 applies are made to him or them; and

(*b*) duty is levied on the proportion of the property so passing to or for the benefit of such person or persons

and on him or them and such duty is payable by him or them; and

(*c*) the amount of the duty levied on the proportion of such property, where the aggregate value exceeds $10,000 but does not exceed $20,000, so passing to or for the benefit of any one of such persons and on him is greater than an amount equal to one-half of the amount obtained by,

(i) multiplying the amount by which the aggregate value exceeds $10,000 by the sum of the amount of the value of such propety so passing to him and of such dispositions made to him, and

(ii) dividing the product thereof by the aggregate value,

the amount of the duty mentioned in clause *c* shall be reduced to one-half of the amount obtained under subclauses i and ii of clause *c*; and

(*d*) the amount of the duty including the surtax provided for by subsection 7, levied on the proportion of such property, where the aggregate value exceeds $20,000, so passing to or for the benefit of any one of such persons and on him, by reason of the application of the rate of duty provided for by clause *a* of subsection 5, is greater than an amount equal to one-half of the amount obtained by,

(i) multiplying the amount by which the aggregate value exceeds $20,000 by the sum of the amount of the value of such property so passing to him and of such dispositions made to him, and

(ii) dividing the product thereof by the aggregate value,

the amount of the duty mentioned in clause *d* shall be reduced to an amount equal to one-half of the amount obtained under subclauses i and ii of clause *d*.

Notch clause, strangers

(10) Where,

(*a*) any of the property to which clause *a* of section 1 applies passes to or for the benefit of any person or persons mentioned in subsection 6 and any of the dispositions to which clause *a* of section 1 applies are made to him or them; and

(*b*) duty is levied on the proportion of the property so passing to or for the benefit of such person or persons and on him or them and such duty is payable by him or them; and

(*c*) the amount of the duty levied on the proportion of such property so passing to or for the benefit of any one of

such persons and on him is greater than an amount equal to one-half of the amount obtained by,

(i) multiplying the amount by which the aggregate value exceeds $10,000 by the sum of the amount of the value of such property so passing to him and of such dispositions made to him, and

(ii) dividing the product thereof by the aggregate value,

the amount of the duty mentioned in clause *c* shall be reduced to one-half of the amount obtained under subclauses i and ii of clause *c*. 1962-63, c. 135, s. 3 (5).

(11) In this section, Interpretation

(*a*) "dependant" means,

(i) the spouse of the deceased, or

(ii) a dependent child of the deceased;

(*b*) "dependants' allowance" means,

(i) where the deceased is survived by a spouse and no dependent children, $125,000,

(ii) where the deceased is survived by a spouse and a dependent child or children, an amount equal to the sum of $125,000 and $15,000 for each dependent child, or

(iii) where the deceased is not survived by a spouse but is survived by a dependent child or children, an amount equal to the product expressed in dollars of 25,000 and the number of dependent children;

(*c*) "dependent child" means,

(i) legitimate child of the deceased,

(ii) person adopted by the deceased, or

(iii) person to whom the deceased or the spouse of the deceased stood *in loco parentis* during the infancy of such person,

who at the time of the death of the deceased was under twenty-one years of age or was twenty-one years of age or over and dependent upon the deceased or the spouse of the deceased or both for support by reason of being infirm;

(*d*) "increased individual dependant reduction", in the case of the spouse of the deceased, means the sum of the amount of the individual dependant reduction and the amount of the individual dependant reduction of each dependent child in whose case the sum of the value of the property passing on the death of the deceased to him or for his benefit and of the value of all dispositions to him that do not come within clause *g* of subsection 1 of

section 5 does not exceed the amount of his individual dependant allowance;

(*e*) "increased individual dependant reduction", in the case of a dependant where the deceased is not survived by a spouse, means the sum of,

(i) the amount of his individual dependant reduction, and

(ii) an amount equal to the amount obtained by dividing the product of,

A. the amount of the dependant's individual dependant allowance, and

B. the sum of the amounts of the individual dependant reduction of dependants in whose cases the sum of the value of the property passing on the death of the deceased to him or for his benefit, and of the value of all dispositions to him that do not come within clause *g* of subsection 1 of section 5, does not exceed the amount of his individual dependant allowance,

by the sum of the amounts of the individual dependant allowance of all dependants, exclusive of dependants mentioned in subclause B;

(*f*) "individual dependant allowance" means,

(i) in the case of the spouse of the deceased, $125,000,

(ii) in the case of a dependent child of the deceased where the deceased is survived by a spouse, $15,000, or

(iii) in the case of a dependent child of the deceased where the deceased is not survived by a spouse, $25,000,

(*g*) "individual dependant reduction" means, in the case of a dependant, the amount obtained by applying to the amount of his individual dependant allowance the rates applicable under subsection 1 to amounts equal to the amount of his individual dependant allowance and by adding to the amount so obtained 15 per cent thereof, provided that, where the dependant's individual dependant allowance is less than $50,000, the rate to be applied to his individual dependant allowance shall be 2.5 per cent. R.S.O. 1960, c. 386, s. 7 (8); 1962-63, c. 135, s. 3 (6); 1966, c. 148, s. 1; 1970, c. 51, s. 4 (2-7).

Provision in will exonerating legatee from payment of tax

8.—(1) Where the deceased by his will or in any instrument or in any other manner makes any provision for exonerating any person from, indemnifying any person in respect of or reimbursing any person for the payment of any duty, inheritance or death tax

or similar impost payable by reason of the death of the deceased and any property is utilized or applied, in pursuance of such provision, in so exonerating, indemnifying or reimbursing any person,

(*a*) such property shall be property passing on the death of the deceased to or for the benefit of such person; and

(*b*) notwithstanding anything in this Act,

(i) the duty levied on any property shall be at the same rate at which duty would have been levied on or with respect to such property if no such provision had been made,

(ii) the duty levied on any person shall, with respect to any transmission or disposition to him had no such provision been made, be at the same rate at which duty would have been levied with respect to such transmission or disposition if no such provision had been made, and the duty levied on any person shall, with respect to the transmission to him by reason of such provision, be at the same rate at which duty would have been levied if no such provision had been made, and

(iii) the duty ascertained as provided in this section shall be due and payable and interest with respect thereto shall be charged or allowed the same as the duty that would arise if no such provision had been made would be due and payable and interest with respect thereto would be charged or allowed.

Where death occurred prior to Apr. 5th, 1946

(2) Where the deceased died before the 5th day of April, 1946, having by his will or any instrument or in any other manner made any provision relating to the payment of duty to the extent that any person on whom duty is levied or any person to whom or for whose benefit any property on which duty is levied passes, is exonerated from, indemnified in respect of or reimbursed for the payment of any duty, inheritance or death tax or similar impost, payable by reason of his death, and where the duty payable on or by reason of his death remains in dispute because of such provision, the persons by whom duty is payable may settle and pay all such duty on the bases *mutatis mutandis* of the provisions of subsection 1 as though such provisions were in force at the date of death of the deceased. R.S.O. 1960, c. 386, s. 8.

Allowance for duty paid elsewhere on same death

9. Where estate, legacy or succession duty is payable and paid in any jurisdiction that may be designated by the Lieutenant Governor in Council, on property in respect of which there is a transmission, the duty levied pursuant to clause *b* of section 6 on any person to whom there is such transmission with respect to such transmission shall be reduced by the amount of the duty so

paid which does not exceed the amount of the duty so levied. R.S.O. 1960, c. 386, s. 9.

Consent

10.—(1) On the death of any person, whether he dies domiciled in Ontario or elsewhere, unless the consent in writing of the Minister is obtained,

(*a*) no bank, trust company, insurance company or other corporation, having its head office, principal place of business, office from which payments are made, register of transfers, or any place of transfer, in Ontario, shall deliver, assign, transfer or pay, or permit the delivery, assignment, transfer or payment of,

(i) any property situate in Ontario in which the deceased at the time of his death had any beneficial interest, or

(ii) any money payable as a result of death under any contract of insurance either effected, contracted for or applied for by the deceased, or in which the deceased had at the time of his death any interest, where the debt resulting in the payment of such money was situate in Ontario at the date of death of the deceased; and

(*b*) no person in Ontario, other than a person acting in the capacity of administering the propery passing on the death of the deceased, shall deliver, assign, transfer or pay or permit the delivery, assignment, transfer or payment of any property in which the deceased had at the time of his death any beneficial interest,

but this subsection does not apply to any contract or to any fund, plan or scheme to which clause *h* of section 4 applies. R.S.O. 1960, c. 386, s. 10 (1); 1962-63, c. 135, s. 4 (1); 1964, c. 112, s. 3; 1970, c. 51, s. 5 (1).

Exception

(2) Notwithstanding subsection 1, a corporation having a head office in Ontario may transfer shares registered in the name of the deceased without the consent of the Minister provided that,

(*a*) the deceased died domiciled and resident outside Ontario;

(*b*) the certificates for the said shares were at the time of the death of the deceased physically situate outside Ontario; and

(*c*) the transfer will be effected at a place of transfer outside Ontario where the corporation maintains an agency for the transfer of its shares.

Payment of insurance without consent

(3) Notwithstanding anything in this Act, any insurance company may, without the consent of the Minister,

(*a*) make payment not exceeding $11,500 to the spouse of the deceased; and

(*b*) make payment not exceeding $2,500 in the aggregate to any other person or persons,

due under any contract or contracts of insurance mentioned in subsection 1, and where any such payment exceeds $900, notice of such payment shall be transmitted forthwith to the Minister. 1970, c. 51, s. 5 (2, 3).

Payments under pension funds, etc.

(4) Notwithstanding anything in this Act, any person may make payment not exceeding $11,500 under any pension fund, plan or scheme of general application to employees of whom the deceased was one, without the consent of the Minister, where payment is made to or for the benefit of any member or members of the family of the deceased, and notice of the making of payment shall be transmitted forthwith to the Minister. R.S.O. 1960, c. 386, s. 10 (3); 1962-63, c. 135, s. 4 (2); 1970, c. 51, s. 5 (4).

Payment of money on deposit, where no consent necessary

(5) Notwithstanding anything in this Act, where the deceased died domiciled in Ontario any one branch of any bank, trust company, or any insurance company, other corporation or any one person or any credit union may pay an amount not exceeding $2,500 of money on deposit standing to the credit of the deceased either alone or jointly with any person, without the consent of the Minister, and notice of such payment shall be transmitted forthwith to the Minister, and such notice shall show the full name of the deceased, the date and place of his death, the amount paid, the name and relationship to the deceased of the person to whom paid and the total amount of the money on deposit at the date of death of the deceased. R.S.O. 1960, c. 386, s. 10 (4); 1965, c. 126, s. 4; 1970, c. 51, s. 5 (5).

Payment of money on account of outstanding wages, where no consent necessary

(6) Notwithstanding anything in this Act, where the deceased died domiciled in Ontario, any employer of the deceased may pay as or on account of salary, wages or other remuneration owed to the deceased, or on account of commissions for services rendered by the deceased, an amount not exceeding $1,500 without the consent of the Minister, and notice of such payment shall be transmitted forthwith to the Minister, and such notice shall show the full name of the deceased, the date and place of his death, the amount paid, the name and relationship to the deceased of the person to whom paid and the total amount of such salary, wages, other remuneration or commissions. R.S.O. 1960, c. 386, s. 10 (5); 1970, c. 51, s. 5 (6).

Offence

(7) Every bank, trust company, insurance company or other corporation and every other person who fails to comply with this section is guilty of an offence and on summary conviction is, for each offence, liable to a fine of $1,000 and an amount not exceeding the amount of duty levied on or with respect to the

transmission or disposition of any property dealt with in contravention of this section. R.S.O. 1960, c. 386, s. 10 (6).

Safety deposit boxes

11.—(1) No person shall, without the consent in writing of the Minister, open or permit the opening of any safety deposit box or other repository in Ontario or remove or permit the removal from Ontario of any such safety deposit box or other repository, or withdraw or permit the withdrawal of anything from any such safety deposit box or other repository where such safety deposit box or other repository stands in the name of the deceased either alone or jointly with any person, or in the name of any member of the family of the deceased either alone or jointly with any person or where the deceased or any member of his family had access or right of access, directly or indirectly, to any such safety deposit box or other repository. R.S.O. 1960, c. 386, s. 11 (1); 1970, c. 51, s. 6 (1).

Offence

(2) Every person who fails to comply with this section is guilty of an offence and on summary conviction is, for each offence, liable to a fine of $1,000 and an amount not exceeding the amount of duty levied on or with respect to the transmission or disposition of anything withdrawn in contravention of this section. R.S.O. 1960, c. 386, s. 11 (2).

Liability for duty and interest

12.—(1) Every person resident in Ontario at the date of death of the deceased to whom or for whose benefit any property situate in Ontario passes on the death of the deceased is liable for the duty levied on the proportion of such property that so passes to him or for his benefit, together with such interest as may be payable thereon.

Idem

(2) Every person on whom duty is levied is liable for such duty, together with such interest as may be payable thereon.

Duty payable to Treasurer

(3) The duty levied by this Act shall be paid to the Treasurer. R.S.O. 1960, c. 386, s. 12.

Filing affidavit

13.—(1) Every person to whom or for whose benefit any property situate in Ontario passes on the death of the deceased or to whom there is a transmission or to whom a disposition is made, shall within three months after the death of the deceased, or within such further period as may be allowed by the Minister, make and file with the Minister an affidavit containing,

(*a*) an inventory of all the property passing on the death of the deceased to him or for his benefit and particulars of all dispositions made to him and an inventory of all the property passing on the death of the deceased to or for the benefit of any other person and particulars of all dispositions made to any other person, of which he has knowledge, and such inventories shall show the value of such property and dispositions; and

(*b*) his name and the names of all such other persons, his and their places of residence and the degrees of relationship in which he and they stand to the deceased. R.S.O. 1960, c. 386, s. 13 (1); 1970, c. 51, s. 7 (1).

Filing inventory, etc., before probate

(2) The applicant for probate, letters of administration or other grant, shall at the time of making application make and file with the Minister an affidavit containing,

(*a*) an inventory of all the property passing on the death of the deceased and particulars of all dispositions and such inventory shall show the value of such property and dispositions; and

(*b*) the name of every person who benefits by any property passing on the death of the deceased or to whom a disposition is made, the place of residence of such person and the degree of relationship in which such person stands to the deceased. R.S.O. 1960, c. 386, s. 13 (2); 1970, c. 51, s. 7 (2).

Dispensing with affidavit

(3) Where an affidavit purporting to be the affidavit required by subsection 2 has been filed within the period mentioned in subsection 1, the Minister may, in writing, dispense with the filing of an affidavit by any of the persons to whom subsection 1 applies. R.S.O. 1960, c. 386, s. 13 (3); 1970, c. 51, s. 7 (3).

Penalty

(4) Every person in Ontario who makes default in complying with subsection 1 or 2 shall pay to the Treasurer as a penalty the sum of $10 for each day during which the default continues. R.S.O. 1960, c. 386, s. 13 (4).

Non-disclosure, 100 per cent

14.—(1) Every person in Ontario mentioned in subsections 1 and 2 of section 13 who fails to disclose to the Minister any property passing on the death of the deceased or any disposition which such person is required to disclose in accordance with section 13, shall pay to the Treasurer as a penalty an amount equal to 100 per cent of the amount of the duty levied on such property or with respect to the transmission of such property or with respect to such disposition. R.S.O. 1960, c. 386, s. 14 (1); 1970, c. 51, s. 8 (1).

Non-disclosure, per diem penalty

(2) Every person in Ontario mentioned in subsections 1 and 2 of section 13 who fails to disclose to the Minister any property passing on the death of the deceased or any disposition which such person is required to disclose in accordance with section 13, shall pay to the Treasurer as a penalty the sum of $1 per day for each full $1,000 in excess of $1,000 in value of such property or disposition up to $10 per day for each day of the period commencing with the day on which an affidavit purporting to be the affidavit required by subsection 1 or 2 of section 13 was filed and ending on the day on which it becomes known to the Minister that such property or disposition was not so disclosed, but the

amount of such penalty shall not exceed the value of such property or disposition. R.S.O. 1960, c. 386, s. 14 (2); 1970, c. 51, s. 8 (2).

Security for duty

15.—(1) The Treasurer may accept security satisfactory to him,

(*a*) for the payment of any duty that appears to be due, whether it has become payable or not, by deposit with him of a sum of money in an amount which he considers to be sufficient;

(*b*) for the payment of any duty that appears to be due which has not become payable, by deposit with him of securities acceptable to him of a value which he considers to be sufficient; or

(*c*) for the payment of any duty with respect to an interest in expectancy that is not to be paid until such interest falls into possession or commences to be enjoyed or for any duty that is not ascertainable until some future time, by bond acceptable to him and in such penal sum as he may require or by deposit with him of securities acceptable to him of a value which he considers to be sufficient. R.S.O. 1960, c. 386, s. 15 (1); 1961-62, c. 133, s. 2.

Security for compliance with s. 26

(2) The Treasurer may accept security satisfactory to him for compliance by any person with section 26, by bond acceptable to the Treasurer and in such penal sum as he requires or by deposit with him of securities acceptable to him of a value which he considers to be sufficient.

Security by way of bond

(3) Where the security mentioned in clause *c* of subsection 1 or in subsection 2 is by way of bond, the bond shall be in such form as is prescribed by the Lieutenant Governor in Council. R.S.O. 1960, c. 386, s. 15 (2, 3).

Interest on cash security

(4) The Treasurer may allow interest at a rate prescribed by the regulations upon the amount by which any cash security from time to time exceeds the amount of duty that has become payable. 1970, c. 51, s. 9.

When duty payable, general

16.—(1) Unless otherwise provided, duty is due at the death of the deceased and is payable within six months thereafter. R.S.O. 1960, c. 386, s. 16 (1); 1961-62, c. 133, s. 3 (1).

Annuities, etc.

(2) Where any annuity, term of years, life estate or income is created by the will of the deceased or by any disposition, the duty for which any person who benefits by such annuity, term of years, life estate or income is liable with respect thereto shall, unless otherwise provided, be paid in a number of equal annual instalments equal to,

(*a*) the number of years,

(i) of expectancy of life of such person, ascertained as provided in subsection 4 of section 3, or

(ii) for which such annuity, term of years or income is to run,

as the case may be; or

(*b*) ten,

whichever is the lesser, and such instalments shall commence one year after the death of the deceased.

Interests in expectancy of deceased

(3) Where the deceased had any interest in expectancy, the duty levied on such interest in expectancy or on the person to whom there is a transmission or to whom a disposition is made of such interest in expectancy may be paid as provided by subsection 1 or in the manner provided by subsection 5 or 7.

Interests in expectancy created by deceased

(4) Where any interest in expectancy is created by the will of the deceased or by any disposition, the duty for which any person who benefits by such interest in expectancy is liable with respect thereto may be paid as provided by subsection 1 or in the manner provided by subsection 5 or 7.

Interests in expectancy in possession

(5) The duty mentioned in subsections 3 and 4, if not paid within the time provided by subsection 1, is due when such interest in expectancy falls into possession and shall be paid within three months thereafter on the basis of the value at the date of falling into possession of the property in respect to which such interest in expectancy existed, and no deduction shall be made for any duty paid on or with respect to any prior interest, income or annuity arising out of the property in respect of which such interest in expectancy exists. R.S.O. 1960, c. 386, s. 16 (2-5).

Interests in expectancy before possession or enjoyment

(6) Notwithstanding subsections 3, 4, 5 and 7, the duty mentioned in subsections 3 and 4 may, with the consent of the Minister, be paid after the time provided by subsection 1 and before such interest in expectancy falls into possession or commences to be enjoyed and shall be on the basis of the value of such interest in expectancy ascertained as provided in this Act as at the date when such consent is given and no deduction shall be made for any duty paid on or with respect to any prior interest, income or annuity arising out of the property in respect of which such interest in expectancy exists. R.S.O. 1960, c. 386, s. 16 (6); 1961-62, c. 133, s. 3 (2); 1970, c. 51, s. 10.

Annuities, etc.

(7) Where any interest in expectancy is an annuity, term of years, life estate or income, the duty mentioned in subsections 3 and 4, if not paid within the time provided by subsection 1, is due when such interest in expectancy commences to be enjoyed, and shall be paid in a number of equal annual instalments equal to,

(*a*) the number of years,

(i) of expectancy of life of the person by whom such interest in expectancy is enjoyed, ascertained as provided in subsection 4 of section 3, or

(ii) for which such annuity, term of years or income is to run,

as the case may be; or

(*b*) ten,

whichever is the lesser, on the basis of the value of the property in respect of which such interest in expectancy exists, at the date when such interest commences to be enjoyed, and no deduction shall be made for any duty paid on or with respect to any prior interest, income or annuity arising out of the property in respect of which such interest in expectancy exists, and such instalments shall commence one year after the date when such annuity, term of years, life estate or income commences to be enjoyed. 1961-62, c. 133, s. 3 (3).

Interest on duty in subs. 1 of s. 16

17.—(1) If the duty mentioned in subsection 1 of section 16, or any part thereof, is not paid within the time provided therein, interest at the rate prescribed by the regulations calculated from the date when such duty became payable shall be charged and paid on the amount from time to time unpaid. R.S.O. 1960, c. 386, s. 17 (1); 1961-62, c. 133, s. 4 (1); 1970, c. 51, s. 11 (1).

Interest on duty in subs. 2 of s. 16

(2) If any instalment of duty mentioned in subsection 2 of section 16, or any part thereof, is not paid within the times provided therein, interest at the rate prescribed by the regulations calculated from the date when such instalment became payable shall be charged and paid on the amount of such instalment from time to time unpaid. R.S.O. 1960, c. 386, s. 17 (2); 1961-62, c. 133, s. 4 (2); 1970, c. 51, s. 11 (2).

Interest on duty in subs. 5 of s. 16

(3) If the duty mentioned in subsection 5 of section 16, or any part thereof, is not paid within three months after the interest in expectancy falls into possession, interest at the rate prescribed by the regulations calculated from the date when such duty became payable shall be charged and paid on the amount from time to time unpaid. R.S.O. 1960, c. 386, s. 17 (3); 1961-62, c. 133, s. 4 (3); 1970, c. 51, s. 11 (3).

Interest on duty in subs. 7 of s. 16

(4) If any instalment of duty mentioned in subsection 7 of section 16, or any part thereof, is not paid within the times provided therein, interest at the rate prescribed by the regulations calculated from the date when such instalment became payable shall be charged and paid on the amount of such instalment from time to time unpaid. R.S.O. 1960, c. 386, s. 17 (4); 1961-62, c. 133, s. 4 (4); 1970, c. 51, s. 11 (4).

18. Where a general power to appoint any property either by instrument *inter vivos* or by will or both is given to any person, the duty levied on such property or on the person to whom a disposition is made in respect of such property shall be paid in the same manner as if the property had been devised or bequeathed to the person to whom such power is given. R.S.O. 1960, c. 386, s. 18. Payment of duty where general power of appointment

19. Where an order is made under section 2 of *The Dependants' Relief Act*, the deceased shall be deemed by his will to have directed that the money or other property directed by the order to be paid, delivered, transferred, conveyed or assigned, be paid, delivered, transferred, conveyed or assigned to the person for whose maintenance the allowance is by the order made. R.S.O. 1960, c. 386, s. 19. Effect of order under R.S.O. 1970, c. 126

20. Any payment, other than a payment of penalties, made to the Treasurer under this Act shall first be applied on any interest that may be payable on the duty. R.S.O. 1960, c. 386, s. 20. Application of payment on account

21.—(1) Where any duty is levied on property passing on the death of the deceased, such duty or so much thereof as remains unpaid, with interest thereon, is and remains a first lien and charge on such property until paid or a certificate is given under section 40 discharging such property. Lien on property

(2) The duty levied on any person to whom a disposition is made, with respect to such disposition, is and remains a first lien and charge on the property in Ontario at the date of death of the deceased in respect of which the disposition is made where such property is owned at the date of death of the deceased by the person to whom the disposition is made, until paid or a certificate is given under section 40 discharging such property. R.S.O. 1960, c. 386, s. 21 (1, 2). Lien with respect to disposition

(3) The Minister may cause to be registered in the proper registry office or office of land titles, as the case may be, a caution claiming duty levied on any land, mortgage or charge or on any person to whom any disposition in respect of any land, mortgage or charge is made. R.S.O. 1960, c. 386, s. 21 (3); 1070, c. 51, s. 12. Caution

(4) Notwithstanding any provision of this or any other Act but subject to sections 10 and 11 of this Act, section 50 of *The Registry Act* and subsection 1 of section 140 of *The Land Titles Act*, any property passing on the death of the deceased or any property in respect of which a disposition is made which has been acquired by or transferred to any person in good faith for valuable consideration without notice, is not subject to any lien or charge for duty or interest under this Act. R.S.O. 1960, c. 386, s. 21 (4). Where no lien R.S.O. 1970, cc. 409, 234

22. Where any duty is paid before the time provided for payment thereof, the Treasurer may allow interest upon the amount so paid at a rate prescribed by the regulations calculated Interest allowed on prepayments

from the time of payment until the time so provided for payment. R.S.O. 1960, c. 386, s. 22; 1970, c. 51, s. 13.

Extension of time by order in council

23. The Minister, upon proof to his satisfaction that payment of duty within the time provided for payment thereof would be unduly onerous, may extend the time for payment to such date and upon such terms as he may consider proper. R.S.O. 1960, c. 386, s. 23; 1970, c. 51, s. 14.

Duty overpaid to be refunded in certain cases

24. The Treasurer, upon proof to the satisfaction of the Minister that an overpayment of duty has been made, may refund the amount of such overpayment together with interest thereon at a rate prescribed by the regulations calculated from the date of the making of such overpayment to the date on which such amount is refunded, provided that no such refund shall be made after the expiration of four years from the receipt by the Treasurer of an amount purporting to be in full settlement of duty. 1970, c. 51, s. 15.

Treasurer may require payment to be made in succession duty free bonds

25.—(1) Where property passing on the death of the deceased includes bonds, debentures, inscribed stock or other securities of the Province of Ontario issued under any statute of Ontario exempting them from duty, then notwithstanding any declaration or provision made by will or otherwise by the deceased, the Treasurer may require that such bonds, debentures, inscribed stock or other securities or so much thereof as may be necessary shall be delivered to him and applied in payment of or on account of the duty payable by the persons to whom such bonds, debentures, inscribed stock or other securities pass, and such bonds, debentures, inscribed stock or other securities shall be so applied at their value on the date of death of the deceased.

Indebtedness to be charged to duty free securities

(2) Where property passing on the death of the deceased includes bonds, debentures, inscribed stock or other securities of the Province of Ontario issued under any statute of Ontario exempting them from duty, and there is no specific bequest thereof, such bonds, debentures, inscribed stock or other securities shall, for the purposes of this Act, be deemed to be distributed among the heirs, legatees, beneficiaries or next-of-kin in the same ratio as they share in the property not specifically bequeathed, and shall be directly chargeable with any indebtedness for which they are pledged as collateral or other security and shall bear *pro rata*, a proportion of the other debts and deductions authorized by subsection 6 of section 3. R.S.O. 1960, c. 386, s. 25.

Executors, etc., not personally liable; to deduct duty

26.—(1) An executor, trustee or person acting in a fiduciary capacity is not, as such, personally liable for any duty levied by this Act, but no person in Ontario shall pay, deliver, assign or transfer to or for the benefit of the person beneficially entitled thereto any property that is vested in him as an executor, trustee

or person acting in a fiduciary capacity at any time after the death of the deceased without deducting therefrom or collecting an amount sufficient to pay the duty levied on the proportion of the property passing on the death of the deceased to or for the benefit of such beneficially entitled person and the duty levied on such person, together with interest thereon.

Penalty

(2) Every such executor, trustee or person who transfers any such property without so deducting or collecting the amount payable by the person beneficially entitled thereto is guilty of an offence and on summary conviction is liable to pay the Treasurer as a penalty an amount equal to 150 per cent of the amount of such duty, provided that any such executor, trustee or person is not so guilty or so liable if he so deducts from the property transferred or so collects an amount sufficient to pay the duty and interest payable by the person beneficially entitled thereto as claimed in a statement made pursuant to subsection 1 of section 33 or in any other claim made by the Treasurer or as determined by any court.

Money to be paid over to Treasurer

(3) Any executor or trustee or any person who has any money for the payment of duty, interest or penalties shall be deemed to be a person who has received money for the Crown or for which he is accountable to the Crown within the meaning of *The Financial Administration Act*.

R.S.O. 1970, c. 166

Raising of funds for duty

(4) Any person who may be required under the will of the deceased or any trust created by the deceased to pay the duty levied on any property that has come into his possession, or is vested in him or is under his control, or levied on any person to whom there is a transmission of any such property or to whom a disposition of any such property is made, has, for the purpose of paying such duty or raising the amount of the duty when already paid, power to raise the amount of such duty and any interest and expense properly incurred by him in respect thereof, by sale, mortgage, lease or pledge, of so much of such property as may be necessary for such purpose. R.S.O. 1960, c. 386, s. 26.

Inquiry by Minister

27.—(1) The Minister may make any examination, investigation or inquiry concerning any fact, practice, transaction or matter, that he in his absolute discretion may consider necessary for the purpose of obtaining information to ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof. R.S.O. 1960, c. 386, s. 27 (1); 1970, c. 51, s. 16 (1).

Special investigator

(2) Where the Minister for any reason is not satisfied that he is in possession of all facts necessary to ascertain whether any duty, interest or penalties are or may be due or payable, he may appoint a special investigator to make on his behalf any examination, investigation or inquiry that the special investigator in his

absolute discretion may consider necessary for the purpose of obtaining information in order that the Minister may ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof. R.S.O. 1960, c. 386, s. 27 (1, 2); 1970, c. 51, s. 16 (2).

Service of appointment

(3) A copy of the appointment of a special investigator may be served on any person at any time. R.S.O. 1960, c. 386, s. 27 (3).

Further powers

(4) The Minister or a special investigator has power to require any person to give him any information and to produce to him any document, record and thing that he in his absolute discretion may consider necessary for the purpose of obtaining information in order that the Minister may ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof. R.S.O. 1960, c. 386, s. 27 (4); 1970, c. 51, s. 16 (3).

Commissioner

28.—(1) Where the Minister for any reason is not satisfied that he is in possession of all facts necessary to ascertain whether any duty, interest or penalties are or may be due or payable, he may appoint a commissioner to make on his behalf any examination, investigation or inquiry that the commissioner in his absolute discretion may consider necessary for the purpose of obtaining information in order that the Minister may ascertain whether any duty, interest or penalties are or may be due or payable, and if so the amount thereof. R.S.O. 1960, c. 386, s. 28 (1); 1970, c. 51, s. 17 (1).

Service of appointment

(2) A copy of the appointment of a commissioner may be served on any person at any time.

Further powers

(3) The commissioner has the same power to administer oaths, summon and enforce the attendance of witnesses and to compel them to give evidence on oath and to produce any document, record and thing as is vested in any court in civil cases, provided that the commissioner is not bound by the provisions of rules of court or of law relating to the service of subpoenas on and of payment of conduct money or witness fees to witnesses.

Evidence *de bene esse*

(4) A judge of the Supreme Court may, on the application of the commissioner, make an order for the evidence of any person to be taken *de bene esse* or for it to be taken out of Ontario by commission or otherwise in the like circumstances and with the like effect as a similar order may be made in an action in such court.

Conduct of proceedings by commissioner

(5) The proceedings before a commissioner shall be conducted at such place, at such time, in such manner and either in public or otherwise as the commissioner may determine. R.S.O. 1960, c. 386, s. 28 (2-5).

Record of proceedings

(6) A record of the proceedings before a commissioner shall be made in shorthand and shall be transcribed on the order of the

Minister or the commissioner or, with the consent of the commissioner, on the order of any person concerned upon payment of the reporter's charges therefor. R.S.O. 1960, c. 386, s. 28 (6); 1970, c. 51, s. 17 (2).

Commissioner's report

(7) The commissioner shall within thirty days after the completion of the examination, investigation or inquiry, or within such further period as the Minister may allow, report in writing to the Minister. R.S.O. 1960, c. 386, s. 28 (7); 1970, c. 51, s. 17 (3).

Duty to answer and produce

29.—(1) Every person shall answer any question, furnish any information and produce any document, record and thing asked or required of him by the Minister or a special investigator. R.S.O. 1960, c. 386, s. 30 (1); 1970, c. 51, s. 19.

Duty to give evidence, etc.

(2) Every person shall appear and give evidence on oath, answer any question, furnish any information and produce any document, record and thing asked or required of him by a commissioner.

Privilege

(3) No person is entitled to claim any privilege in respect of any information, question, document, record or thing.

No action against certain persons

(4) No action lies against any person to whom subsection 1, 2 or 3 applies for anything done or purported to be done in pursuance of this section. R.S.O. 1960, c. 386, s. 30 (2-4).

Material to be furnished to Minister

30. Every person shall, when requested by the Minister, furnish to the Minister any material that the Minister may require for the purposes of this Act or furnish the Minister with written authority to inspect and make copies of any document, record or thing. R.S.O. 1960, c. 386, s. 31; 1970, c. 51, s. 20.

Destroying, etc., property, etc.

31. No person in Ontario after being served with a copy of the appointment of a special investigator or of a commissioner shall, without the consent in writing of the Minister, destroy, mutilate, deface or alter, or permit the destruction, mutilation, defacement or alteration of, or conceal, or cause or permit the concealment of, or remove, or cause or permit the removal from Ontario of,

(a) any property passing on the death of the deceased, any property deemed by any Act in force at the date of death of the deceased to pass on the death, or any property in respect of which a disposition is made, or any muniment or evidence of title to or of interest in any such property;

(b) any property, muniment or evidence of title or interest belonging to or in the possession of any executor or trustee relating to any property passing on the death of the deceased, to any property deemed by any Act in force at the date of death of the deceased to pass on the death, or to any disposition;

(c) any property, muniment or evidence of title or interest

belonging to or in the possession of any person by whom duty may be payable; or

(*d*) any books, records, memoranda, documents or papers relating to anything mentioned in this section. R.S.O. 1960, c. 386, s. 32; 1970, c. 51, s. 21.

Direction to hold

32.—(1) Where the Minister in his absolute discretion believes that any property, security, muniment or evidence of title or interest, safety deposit box or other repository mentioned in this subsection is about to be removed from Ontario or to be dissipated, and is not satisfied that all duty, interest or penalties that are or may be due or payable under this or any Act in force at the date of death of the deceased have been fully paid, he may in writing or by telegram direct any person in Ontario having on deposit, in custody, under control or in safe-keeping in Ontario,

(*a*) any property, security, muniment or evidence of title to or of interest in any property passing on the death of the deceased or in any property deemed to pass on the death;

(*b*) any property, security, muniment or evidence of title to or of interest in any property in respect of which a disposition is made; or

(*c*) any safety deposit box or other repository containing any property passing on the death of the deceased, any property deemed to pass on the death, or any property in respect of which a disposition is made, or any property, security, muniment or evidence of title relating to any property passing on the death of the deceased, any property deemed to pass on the death, or any property in respect of which a disposition is made, in the name of, belonging to or in the possession of any executor or trustee, or any safety deposit box or other repository or any property, security, muniment or evidence of title in the name of, belonging to or in the possession of any person by whom duty may be payable,

to hold such property, security, muniment or evidence of title or interest, safety deposit box or other repository, or such part thereof as is mentioned in such direction until the Minister in writing revokes such direction. R.S.O. 1960, c. 386, s. 33 (1); 1970, c. 51, s. 22 (1).

Duty of Minister to proceed; duration of stop-order

(2) The Minister shall, upon giving such direction, proceed with due dispatch in order that the amount of duty, interest and penalties may be ascertained, and unless within one year after giving such direction the Minister serves a statement as provided by subsection 1 of section 33 or commences an action under section 36 and gives notice thereof to the person to whom the direction was given, he shall, at the end of such year, revoke such direction. R.S.O. 1960, c. 386, s. 33 (2); 1970, c. 51, s. 22 (2).

(3) The Minister may at any time modify any such direction. R.S.O. 1960, c. 386, s. 33 (3); 1970, c. 51, s. 22 (3). Minister may modify

33.—(1) Where as a result of information obtained by the Minister under section 13, 27 or 28 or from any other source or in any other manner it appears that duty, interest or penalties are or may be due and payable, he may serve any person by whom the duty, interest or penalties are claimed to be payable with a statement showing the amount of duty, interest and penalties so claimed to be payable and particulars as to the computation thereof, and if the person by whom duty or interest is claimed to be payable is deceased, the statement may be served on his personal representative. R.S.O. 1960, c. 386, s. 34 (1); 1970, c. 51, s. 23 (1). Minister's statement

(2) Where service is made under subsection 1, the Minister shall also serve a copy of the statement on any of the persons acting in the administration of the property passing on the death of the deceased or of any property in respect of which there is a disposition. R.S.O. 1960, c. 386, s. 34 (2); 1970, c. 51, s. 23 (2). Idem

(3) Unless the duty, interest and penalties claimed in the statement are sooner paid, the appellant shall within one month after being served with the statement, serve the Minister with notice of appeal setting out his objection to the statement and the reasons therefor and giving an address in Ontario for service. R.S.O. 1960, c. 386, s. 34 (3); 1965, c. 126, s. 6; 1970, c. 51, s. 23 (3). Notice of appeal

(4) The Minister shall within one month after the service of the notice of appeal serve the appellant with notice of his decision setting out therein that he confirms or amends the statement and the nature and particulars of any amendment. R.S.O. 1960, c. 386, s. 34 (4); 1970, c. 51, s. 23 (4). Treasurer's notice of decision

(5) If the appellant is dissatisfied with the Minister's decision, he shall within one month after the service of the notice of decision, serve the Minister with notice of dissatisfaction setting out therein any further facts, statutory provisions and reasons in support of his appeal as he may see fit. R.S.O. 1960, c. 386, s. 34 (5); 1970, c. 51, s. 23 (5). Notice of dissatisfaction

(6) The Minister shall within two months after the service of the notice of dissatisfaction serve the appellant with a reply confirming or amending the amount of duty, interest or penalties set out in the statement or in the notice of decision, and may set out therein the grounds upon which the reply is based. R.S.O. 1960, c. 386, s. 34 (6); 1970, c. 51, s. 23 (6). Reply

(7) Within one month after the service of the reply, the appellant shall pay to the Treasurer such part as the Minister may require of the amount of duty and interest claimed to be payable by the appellant which are claimed to have become Payment

payable and shall furnish security, satisfactory to the Treasurer, for the payment of any such duty which has not become payable. R.S.O. 1960, c. 386, s. 34 (7); 1970, c. 51, s. 23 (7).

Security for costs, filing documents

(8) Within ten days after compliance with subsection 7, the appellant shall give security for costs in a sum not less than $200 and not more than $1,000 to the satisfaction of the Minister and shall also within such period of ten days file with the local registrar of the Supreme Court for the county or district in which the deceased resided at the date of his death, or where the deceased died resident outside Ontario, with the Registrar of the Supreme Court, true copies of the following documents:

1. The affidavit required by subsection 1 or 2 of section 13 or any statement required under like provisions of any Act as has been filed.
2. Such affidavit of debts as has been filed.
3. Statement of Minister.
4. Notice of appeal.
5. Notice of decision.
6. Notice of dissatisfaction.
7. Reply. R.S.O. 1960, c. 386, s. 34 (8); 1970, c. 51, s. 23 (8).

Record; procedure

(9) The documents so filed constitute the record and the proceedings thereupon become a cause in the Supreme Court and may be set down or entered for trial by the appellant or by the Minister according to the rules of court and shall thereafter be proceeded with in the same manner as an action in such court, and the practice and procedure of such court relating to actions to which Her Majesty is a party, including any right of appeal, and the practice and procedure relating to appeals thereafter apply to such cause. R.S.O. 1960, c. 386, s. 34 (9); 1970, c. 51, s. 23 (9).

Amendment of documents

(10) Notwithstanding anything in the rules of the Supreme Court, the Minister or the appellant may at any time before the conclusion of the hearing of the cause amend the documents served by him once without leave. R.S.O. 1960, c. 386, s. 34 (10); 1970, c. 51, s. 23 (10).

Style of cause

(11) The cause shall be styled:

In the matter of *The Succession Duty Act*, and in the matter of the estate of ....., deceased, and in the matter of ....., of the ..... of ....., in the County of ....., Appellant.

R.S.O. 1960, c. 386, s. 34 (11).

(12) Every judgment or order given or made in any such cause may be enforced in the same manner and by the like process as a judgment or order given or made in an action in the Supreme Court and if as the result of any order or judgment it appears that the appellant has overpaid the amount of duty, interest or penalties payable by him, the Treasurer shall, subject to any order as to costs, refund the amount of the overpayment to the appellant together with interest thereon at a rate prescribed by the regulations calculated from the date of the making of the overpayment to the date on which the amount is refunded. R.S.O. 1960, c. 386, s. 34 (12); 1970, c. 51, s. 23 (11). Enforcement of judgment or order

(13) Where the deceased dies domiciled outside Ontario or where the appellant resides outside Ontario, the times limited by subsections 3, 5 and 7 shall be extended by the Minister for such period as may appear to him to be reasonable and proper, and in such case the period of extension shall be shown in the statement served pursuant to subsections 1 and 2. R.S.O. 1960, c. 386, s. 34 (13); 1970, c. 51, s. 23 (12). Extension of time

(14) Service under this section may be effected personally or by sending by registered mail addressed to the Minister of Revenue, Parliament Buildings, Toronto, Ontario, and to the appellant addressed to the address set out in his notice of appeal, as the case may be, provided that in the case of a statement to be served under subsections 1 and 2 service may be effected personally or by sending the statement by registered mail addressed to the person to be served at his last known address. R.S.O. 1960, c. 386, s. 34 (14); 1970, c. 51, s. 23 (13). Service, how effected

(15) In this section and in sections 34 and 35, "appellant" means a person on whom a statement referred to in subsection 1 is served. R.S.O. 1970, c. 386, s. 34 (15). Interpretation

34.—(1) If the appellant neglects or refuses to comply with subsection 3, 5 or 7 of section 33, the Minister may issue a warrant in the form prescribed by the regulations directed to the sheriff of any county or district in which any property of the appellant is situate for the amount, other than penalties, claimed by the Minister to have become payable by the appellant in the statement served pursuant to subsection 1 of section 33, or in the notice of decision served pursuant to subsection 4 of section 33, where by the notice of decision the amount has been amended, or in the reply served pursuant to subsection 6 of section 33, where by the reply the amount has been further amended, together with interest thereon from the date of the issue of the warrant, and for the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. R.S.O. 1960, c. 386, s. 35 (1); 1970, c. 51, s. 24 (1). Warrant

Non-compliance by appellant

(2) If the appellant, having complied with subsection 7 of section 33, neglects or refuses to comply with subsection 8 of section 33, he shall be deemed to have admitted all amounts claimed by the Minister and the amount paid pursuant to subsection 7 of section 33 shall be retained by the Treasurer, and the Minister may issue a like warrant as is mentioned in subsection 1 for such part of the amount, other than penalties, claimed by the Minister to have become payable by the appellant but which has not been so paid, and the Minister may realize any security given by the appellant for the balance of the amount claimed, and if the appellant has paid all the amount claimed by the Minister to have become payable, the amount, if any, paid into court as security for costs shall be paid out to the appellant. R.S.O. 1960, c. 386, s. 35 (2); 1970, c. 51, s. 24 (2).

Default by Minister

35.—(1) If the Minister fails to comply with subsection 4 or 6 of section 33, the appellant may, by complying with the remaining provisions of section 33, proceed to trial. R.S.O. 1960, c. 386, s. 36 (1); 1970, c. 51, s. 25 (1).

Discontinuance by Minister

(2) The Minister may, at any time prior to compliance by the appellant with subsection 7 of section 33, serve on the appellant a notice of discontinuance stating that he withdraws the statement served pursuant to subsection 1 of section 33 and any subsequent proceedings taken by him under section 33, and such withdrawal does not limit or affect his right to proceed with or to exercise all or any of the powers, rights and remedies, including those mentioned in section 33, conferred by this Act and the statement so withdrawn shall, for the purposes of subsection 2 of section 32, be deemed not to have been served. R.S.O. 1960, c. 386, s. 36 (2); 1970, c. 51, s. 25 (2).

Further duty

(3) Notwithstanding any judgment given or order made in any cause under section 33 or in any action under this Act, if it appears to the Minister that any property or disposition is not included in the claim in the proceedings leading to the judgment or order, the Minister may proceed with or exercise all or any of the powers, rights and remedies, including those mentioned in section 33, conferred by this Act for the purpose of collecting any duty levied on such property not so included, or levied on any person to whom there is a transmission of any such property, with respect to such transmission, or levied on any person to whom any disposition not so included is made, with respect to such disposition, together with any interest thereon and any penalties payable by the person to whom such property passes or to whom such disposition is made. R.S.O. 1960, c. 386, s. 36 (3); 1970, c. 51, s. 25 (3).

Recovery by action

36.—(1) In addition to the powers, rights and remedies of the Minister under this or any other Act, any duty and interest payable under this Act or any Act in force at the date of death of the deceased, any penalties imposed under section 13 or under

similar provisions in force at the date of death of the deceased and any penalties imposed under section 14 or under any Act in force at the date of death of the deceased for failure to disclose property passing on the death of the deceased, property deemed to pass on the death and dispositions, may be recovered with costs by Her Majesty represented by the Minister by action in any court of competent jurisdiction. R.S.O. 1960, c. 386, s. 37 (1); 1970, c. 51, s. 26 (1).

Discovery

(2) In any cause under section 33 or in any action under this Act, any person or any officer or servant of any corporation, whether or not the person or corporation is a party to the cause or action, may be examined upon oath and shall make production upon oath of any documents, records or things that may be in the possession or under the control of the person or corporation in the same manner as a party to an action in the Supreme Court may be required to attend for examination and to make production, but this subsection does not apply to the Minister or any officer or servant of the Crown. R.S.O. 1960, c. 386, s. 37 (2); 1970, c. 51, s. 26 (2).

Preservation of remedies

(3) The use of any of the remedies provided by this section does not limit or affect the right of the Minister to proceed with or to exercise all or any of the powers, rights and remedies conferred by this Act, and any action or proceeding taken under this section does not affect any lien or priority that theretofore existed under this Act or otherwise. R.S.O. 1960, c. 386, s. 37 (3); 1970, c. 51, s. 26 (3).

False statements

37. No person shall make any false statement in any return, instrument, letter, note, telegram or other document required by, filed with, mailed or furnished to the Minister or any officer or employee of the Government of Ontario in connection with any of the provisions of this or of any other Act relating to duty, not under oath or affirmation or in a statutory declaration. R.S.O. 1960, c. 386, s. 38; 1970, c. 51, s. 27.

Preservation of records

38. No executor or trustee in Ontario having in his custody any books, records, memoranda, documents or papers relating to any property passing on the death of the deceased or to any disposition, where the aggregate value exceeds $50,000, shall, without the consent in writing of the Minister, destroy, mutilate, deface or alter, or cause or permit the destruction, mutilation, defacement or alteration of, or remove or cause or permit the removal from Ontario of, any such books, records, memoranda, documents or papers. R.S.O. 1960, c. 386, s. 39; 1970, c. 51, s. 28.

Offences

39. Every person who fails to comply with subsection 1 or 2 of section 29, section 30, section 31, subsection 1 of section 32, section 37 or 38 is guilty of an offence and on summary conviction

is, for each offence, liable to a fine of not less than $1,000 and not more than $10,000 or to imprisonment for a term of not more than two years, or to both fine and imprisonment. R.S.O. 1960, c. 386, s. 40.

Certificate of discharge

40. Where an amount purporting to be in full payment of the duty levied on property situate in Ontario or on any person to whom a disposition of such property is made, with respect to such disposition, has been paid together with any interest on such duty, the Minister shall, upon request, give a certificate discharging such property from any lien or charge for duty and interest. R.S.O. 1960, c. 386, s. 41; 1970, c. 51, s. 29.

Minister's powers to proceed

41. Whether or not any amount purporting to be on account or in full payment of any duty, interest or penalties has been paid, or the Minister or any officer or servant of the Crown has at any time received or acknowledged to have received any amount purporting to be on account or in full payment of any duty, interest or penalties due and payable under this or any Act in force at the date of death of the deceased, the Minister may proceed with or exercise all or any of the powers, rights and remedies, including those mentioned in section 33, conferred by this Act for the purpose of collecting any duty, interest or penalties that should have been paid under this or any Act in force at the date of death of the deceased. R.S.O. 1960, c. 386, s. 42; 1970, c. 51, s. 30.

Where no liability for duty after six years

42. Where the material and information furnished to the Minister is full and true in all respects and contains all facts necessary for the purposes of this Act, then, notwithstanding anything in this or any other Act, no claim shall be made against any person for any duty, interest or penalties for which such person is liable after the expiration of six years from the date of payment to the Treasurer of an amount purporting to be in full settlement of such duty, interest and penalties or of the balance thereof, provided that nothing in this section limits or affects the exercise of any of the powers conferred by sections 27, 28, 32 and 41. R.S.O. 1960, c. 386, s. 43; 1970, c. 51, s. 31.

Secrecy

43.—(1) All information and material furnished to or received by the Minister or any officer or servant of the Crown under this or any Act relating to duty is confidential. R.S.O. 1960, c. 386, s. 45 (1); 1970, c. 51, s. 33 (1).

Communication forbidden

(2) No person shall, otherwise than in the ordinary course of his duties, communicate any such information to or allow access to or inspection of any such material by any person except officers of such departments of the Government of Canada or of any province of Canada as may be designated by the Minister. R.S.O. 1960, c. 386, s. 45 (2); 1970, c. 51, s. 33 (2).

(3) Subsection 1 does not apply to any information or material in the office of the registrar of any surrogate court that was filed with him pursuant to this or any other Act, and subsection 2 does not apply to any such registrar or any person employed in his office in respect of such information or material. Exception

(4) Every person who contravenes any of the provisions of subsection 2 is guilty of an offence and on summary conviction is liable to a fine of not more than $200. R.S.O. 1960, c. 386, s. 45 (3, 4). Offence

44. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) prescribing forms and providing for their use;

(*b*) prescribing the amount, form and manner in which security shall be furnished;

(*c*) prescribing the rates of interest for purposes of this Act;

(*d*) authorizing or requiring the Deputy Minister or any other officer of the Department of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;

(*e*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 386, s. 46; 1970, c. 51, s. 34.

45. Notwithstanding *The Judicature Act* and *The Fines and Forfeitures Act*, the penalties imposed by this or any Act in force at the date of death of the deceased shall not be remitted either in whole or in part, except by the Minister. R.S.O. 1960, c. 386, s. 47; 1970, c. 51, s. 35. Remission of penalties R.S.O. 1970, cc. 228, 167

46.—(1) Where the deceased dies after the coming into force of this Act, this Act applies. Application of Act

(2) Where the deceased died on or after the 1st day of July, 1892, and before the coming into force of this Act, the provisions of the Act in force at the date of death of the deceased, Idem

(*a*) levying duty on or making subject to or liable for duty any person, property, transmission or disposition;

(*b*) affecting or determining the amount and extent of duty;

(*c*) creating an obligation by any person to disclose property passing on the death of the deceased, property deemed to pass on the death and dispositions; and

(*d*) imposing penalties for failure to file returns or for failure to disclose property passing on the death of the deceased, property deemed to pass on the death and dispositions,

apply notwithstanding the repeal of such provisions, but all the other provisions of this Act apply.

Saving

(3) Nothing in subsections 1 and 2 affects the operation of subsection 2 of section 8 or section 48.

Saving Treasurer's powers

(4) This section does not limit the exercise of any of the powers conferred by sections 27, 28, 32 and 41. R.S.O. 1960, c. 386, s. 49.

R.S.O. 1970, c. 246 not to apply

47. *The Limitations Act* does not apply to any action, information or proceeding under this Act, for the recovery of any penalties imposed by this Act or by any Act in force at the date of death of the deceased. R.S.O. 1960, c. 386, s. 50.

Insurance in trust for Treasurer

48.—(1) Notwithstanding anything in *The Succession Duty Amendment Act, 1937*, clause *g* of subsection 2 of section 6 of *The Succession Duty Act, 1934* applies to any policy of insurance that prior to the 8th day of March, 1937, was made payable to the estate of the deceased in trust for the Treasurer for the purpose of providing money necessary to pay the duty on the estate of the deceased.

Idem

(2) Subsection 1 does not apply where the amount of the premiums mentioned in clause *g* of subsection 2 of section 6 of *The Succession Duty Act, 1934* is equal to or greater than the amount of the moneys received by the Treasurer mentioned in such clause *g*. R.S.O. 1960, c. 386, s. 51.

CHAPTER 450

The Summary Convictions Act

Interpretation

1. In this Act, "justice" means a justice of the peace, and includes two or more justices sitting and acting together, a provincial judge, and every other officer or functionary having for the purposes of any Act the authority of a justice or provincial judge. R.S.O. 1960, c. 387, s. 1, *amended*.

Application of Act

2. Subject to any special provision otherwise enacted with respect to such offence, act or matter, this Act applies to,

(*a*) every case in which any person commits, or is suspected of having committed, any offence or act over which the Legislature has legislative authority and for which such person is liable, on summary conviction, to imprisonment, fine, penalty or other punishment; and

(*b*) every case in which an information is laid before a justice in relation to any matter over which the Legislature has legislative authority and with respect to which the justice has authority by law to make an order for the payment of money or otherwise. R.S.O. 1960, c. 387, s. 2, *amended*.

Application of *Criminal Code* 1953-54, c. 51 (Can.)

3. Except where inconsistent with this Act, Parts XIX and XXIV and sections 20, 21, 22, 426, 446 (in so far as it relates to a witness), 621, 623, 624, 625, 682, 683, 684 and 689 of the *Criminal Code* (Canada), as amended or re-enacted from time to time, apply *mutatis mutandis* to every case to which this Act applies as if the provisions thereof were enacted in and formed part of this Act. R.S.O. 1960, c. 387, s. 3; 1964, c. 113, s. 1.

Depositions need not be signed

4. In proceedings under this Act the depositions need not be read over to or signed by the witness. R.S.O. 1960, c. 387, s. 4.

Stated cases R.S.O. 1970, c. 228

5. Notwithstanding anything in *The Judicature Act*, a case stated under Part XXIV of the *Criminal Code* (Canada) shall be heard and determined by a judge of the Supreme Court in chambers. R.S.O. 1960, c. 387, s. 5

Service by mail or personal service

6.—(1) Except as provided in subsection 9, every summons issued for a contravention of any of the provisions of any Act of the Legislature or of any regulation or order made thereunder or of any municipal or other by-law shall be served either by sending

it by prepaid post to the person summoned as hereinafter provided or by personal service as hereinafter provided.

Address

(2) Every summons sent by prepaid post shall be addressed,

(*a*) where the person summoned is not a corporation, to his last or usual place of abode; and

(*b*) where the person summoned is a corporation, to the chief place of business or office or a branch of the corporation; or

(*c*) where the person summoned is the holder of a licence or permit issued from the Department of Transport, to the address registered with the Department.

Non-appearance of person summoned

(3) Except as provided in subsection 6, a summons sent by prepaid post shall have endorsed upon its face in bold face type a notice that if the person summoned does not appear in person or by counsel or other representative at the time and place indicated in the summons, the summons will be served,

(*a*) where the person summoned is not a corporation, by personal service or by leaving it at his place of abode, or, in the case of the holder of a licence or permit issued from the Department of Transport, at the address registered with the Department; and

(*b*) where the person summoned is a corporation, by serving it upon the mayor, president or other head or the clerk, secretary or like officer of the corporation or the chief officer of a branch thereof, or by leaving it at the chief place of business or office or a branch of the corporation, or where it holds a licence or permit issued from the Department of Transport, at the address registered with the Department,

and that, in the event of a conviction, the person summoned may be required to pay the cost of such service. R.S.O. 1960, c. 387, s. 6 (1-3).

When deemed not service

(4) Except as provided in subsection 6 and except where a plea of guilty is entered under section 8, a summons sent by prepaid post shall be deemed not to have been served unless the person summoned appears in person or by his counsel or other representative at the time and place named in the summons. R.S.O. 1960, c. 387, s. 6 (4); 1964, c. 113, s. 2.

Time for service for offences under R.S.O. 1970, c. 202

(5) Every summons issued for a contravention of any provision of *The Highway Traffic Act*, except subsections 1 and 2 of section 7, subsection 1 of section 9, subsections 2 and 3 of section 27, sections 36 and 58, subsection 1 of section 139 and sections 140 and 141, shall be served by sending it by prepaid post or by personal service within twenty-one days of the alleged contravention. R.S.O. 1960, c. 387, s. 6 (5); 1966, c. 149, s. 1.

Service outside Ontario

R.S.O. 1970, cc. 202, 375, 392, 282

(6) Where a summons is issued for a contravention of any of the provisions of *The Highway Traffic Act, The Public Commercial Vehicles Act, The Public Vehicles Act* or *The Motor Vehicle Fuel Tax Act* against a person who resides outside Ontario, whether within or outside Canada, the summons shall be deemed to have been duly served when it has been sent by prepaid post to the last or usual place of abode of the person summoned and every such summons shall have endorsed upon its face in bold face type a notice as follows: "Take notice that the within summons has been issued against you for the offence indicated therein and is served by post upon a non-resident of Ontario in accordance with *The Summary Convictions Act*. If you do not appear in person or by counsel or other representative to make your defence at the time and place indicated in the summons, the charge will be proceeded with in your absence."

Personal service

(7) Every summons not sent by prepaid post shall be served,

(*a*) where the person summoned is not a corporation, by personal service or by leaving it for the person summoned at his last or usual place of abode, with an inmate thereof apparently not under the age of sixteen years, or where he holds a licence or permit issued from the Department of Transport, at the address registered with the Department, with an inmate thereof apparently not under the age of sixteen years; or

(*b*) where the person summoned is a corporation, by serving it upon the mayor, president or other head or the clerk, secretary or like officer of the corporation or the chief officer of a branch thereof, and if any of such persons cannot conveniently be met with, by leaving it at the chief place of business, or office or a branch of the corporation, with an employee of the corporation apparently not under the age of sixteen years, or where it holds a licence or permit issued from the Department of Transport, at the address registered with the Department, with an employee of the corporation apparently not under the age of sixteen years. R.S.O. 1960, c. 387, s. 6 (6, 7).

Where mailed summons deemed not served

(8) Where a summons sent by prepaid post is deemed not to have been served, another summons shall be issued and served in the manner prescribed by subsection 7, and the justice who issues such summons may be a justice other than the one who received the information. R.S.O. 1960, c. 387, s. 6 (8); 1965, c. 127, s. 1.

Time for service of further summons for offence under R.S.O. 1970, c. 202

(9) Where a summons issued under subsection 8 is for a contravention of any provision of *The Highway Traffic Act*, it shall be served within twenty-one days of the date on which the person is required to appear by the original summons. R.S.O. 1960, c. 387, s. 6 (9); 1961-62, c. 134, s. 1 (1).

Extension of time for service

(10) The time for serving a summons under subsection 5 or 9 may be extended at any time by a provincial judge on sufficient evidence being adduced that the person named in the summons could not be served within the prescribed time. R.S.O. 1960, c. 387, s. 6 (10), *amended*.

Proof of sending

(11) The sending of a summons by prepaid post may be proved by the affidavit of the person who posted the summons and the affidavit shall state,

(*a*) the place and date of posting;

(*b*) the name of the person and the address to which the summons was sent; and

(*c*) that such address is,

(i) to the best of the knowledge and belief of the deponent, the last or usual place of abode of the person summoned, or

(ii) where the person summoned is a corporation, the chief place of business or office or a branch of the corporation, or

(iii) registered with the Department of Transport as being the address of the person summoned, according to information received from the Department,

and every such affidavit is *prima facie* evidence of the facts stated therein. R.S.O. 1960, c. 387, s. 6 (11); 1961-62, c. 134, s. 1 (2).

Traffic ticket authorized 1953-54, c. 51 (Can.)

R.S.O. 1970, c. 202

7.—(1) In lieu of the procedure set out in the *Criminal Code* (Canada) for laying an information and for issuing a summons, an information may be laid and a summons issued by means of a traffic ticket in accordance with this section for a contravention of any provision of *The Highway Traffic Act* or any regulations made thereunder or for a contravention of any municipal by-law regulating traffic.

Form of traffic ticket

(2) Every traffic ticket shall be in four parts as follows:

1. Information.
2. Report of conviction.
3. Police record.
4. Summons.

Regulations

(3) The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the form of the traffic ticket;

(*b*) defining any word or expression used in the regulations;

(*c*) authorizing the use on a traffic ticket of any word or expression to designate an offence under *The Highway*

Traffic Act or any regulations made thereunder or any municipal by-law regulating traffic;

(*d*) respecting any matter that he considers necessary to provide for the use of the traffic ticket.

Sufficiency of abbreviations

(4) The use on a traffic ticket of any word or expression authorized by the regulations to designate an offence under *The Highway Traffic Act* or any regulations made thereunder or any municipal by-law is sufficient for all purposes to describe the offence designated by such word or expression.

Offence charged, procedure

(5) A police officer or other informant shall indicate the offence charged on the traffic ticket by placing a cross, thus "X", in the box to the left of the offence charged or if the offence charged does not appear on the traffic ticket he shall write the offence in the space provided therefor on the traffic ticket.

Delivery of summons

(6) Upon completing a traffic ticket and affixing his signature thereto, the police officer shall deliver the traffic ticket summons to the person charged with an offence therein and delivery of the traffic ticket summons in accordance herewith shall be deemed to be personal service in compliance with subsection 7 of section 6. R.S.O. 1960, c. 387, s. 7 (4-6).

Delivery on holiday

(7) Delivery of a traffic ticket summons under subsection 6 may be made on a holiday. 1967, c. 95, s. 1.

Traffic complaint authorized where summons not delivered

(8) Where a traffic ticket summons is not delivered by a police officer in accordance with subsection 6, a traffic ticket information may be used to lay an information before a justice, in which case the traffic ticket summons may be attached for information purposes only to the summons issued by the justice.

Traffic complaint signed and sworn

(9) Every traffic ticket information shall be,

(*a*) signed by the informant and sworn to before a justice; and

(*b*) deposited, together with the traffic ticket report of conviction, with the proper justice.

Complaint need not be sworn to before delivery of summons

(10) The traffic ticket information need not be sworn to before the traffic ticket summons is delivered.

Report of conviction

(11) Where a justice makes a conviction on a traffic ticket information, he shall complete the traffic ticket report of conviction and forward it to the Registrar of Motor Vehicles and it shall be deemed to be compliance with subsection 1 of section 150 of *The Highway Traffic Act*. R.S.O. 1960, c. 387, s. 7 (7-10).

R.S.O. 1970, c. 202

Penalty payable out of court

8.—(1) There may be endorsed upon a summons a notice that the person to whom the summons is directed may pay out of court a specified penalty.

Plea of guilty

(2) Where a summons is so endorsed, it shall provide for a plea of guilty in the following form:

PLEA OF GUILTY

I am aware that I have a right to a hearing in respect of the offence with which I am charged, that by signing this plea of guilty I am waiving my right to a hearing and that my signature may result in a conviction against me without a hearing and may result in the recording of demerit points where applicable under *The Highway Traffic Act*. I hereby plead guilty to the offence as charged.

. . . . . .
Signature of Defendant

Signature

(3) A signature affixed to the form of Plea of Guilty purporting to be that of the person to whom the summons is directed is *prima facie* proof that it is the signature of that person.

Conviction

(4) Upon receipt of the summons with a plea of guilty made thereon in accordance with subsection 2, a justice may convict the person to whom the summons is directed of the offence described in the summons. 1964, c. 113, s. 3.

Effect of giving time for payment

9. Where a conviction or order of a justice adjudges that a fine, penalty or costs be paid, the conviction or order is not void nor is the right to collect any fine or costs or to enforce any penalty under any such conviction or order impaired because of time having been allowed for the payment of the sum or any part thereof, or because of payment having been received of part of the sum adjudged to be paid, or because of the justice having accepted security for the payment of the same or any part thereof. R.S.O. 1960, c. 387, s. 8.

Payment of prosecutor's costs

10.—(1) The justice may award and order, in and by the conviction or order, the defendant to pay to the prosecutor or complainant such costs as to the justice seem reasonable, such costs not being inconsistent with the fees established by law to be taken on proceedings had by and before justices of the peace.

Payment of defendant's costs

(2) Where the justice dismisses the information, he may by the order of dismissal award and order the prosecutor or informant to pay to the defendant such costs as to the justice seem reasonable, the same not being inconsistent with the fees established by law to be taken on proceedings had by and before justices of the peace.

Recovery of costs

(3) The sums allowed for costs shall be stated in the conviction or order, and are recoverable in the same manner and under the same warrants as a penalty adjudged to be paid by the conviction or order, and such costs shall extend to and include costs and charges of the distress, of the commitment, and of conveying the defendant to prison, and it is not necessary to include them in the amount mentioned in the conviction or order, but the amount

thereof in case of a warrant of commitment shall be mentioned on the warrant when it is delivered to the jailer, and in the case of a distress, the person by whom the same are payable is entitled on demand to a statement of the amount thereof.

Recovery of costs where no penalty

(4) Where there is no penalty to be recovered or where the information is dismissed, the costs shall be specified in the order and are recoverable only by distress and sale of the goods and chattels of the party.

Counsel fee

(5) The costs awarded by the justice to the prosecutor or informant or to the defendant, as the case may be, may include a counsel fee of such an amount as the justice considers reasonable but not more than $10. R.S.O. 1960, c. 387, s. 9.

Suspended sentence

11.—(1) Where a person is convicted of an offence for which a minimum punishment is not provided and he has not been previously convicted of any offence, the justice may, if he thinks it expedient having regard to the age, character and antecedents of the offender and to the nature of the offence and to any extenuating circumstances, direct that he be released upon suspended sentence.

Sentence after suspension

(2) The offender so released may at any time within two years or such shorter period as the justice fixes be called upon to appear and receive sentence if in the meantime he fails to keep the peace and to be of good behaviour.

Security from person convicted

(3) The justice may, if he sees fit, require a bond with or without sureties for such appearance and keeping of the peace and good behaviour. R.S.O. 1960, c. 387, s. 10.

Fine in lieu of imprisonment

12. Where a person is convicted of an offence and under the relevant Act the convicting justice has no option but must impose a term of imprisonment upon the offender, the justice may, notwithstanding that Act, impose a fine of not more than $1,000 in lieu of such imprisonment. R.S.O. 1960, c. 387, s. 11.

Conviction or order involving payment of money by a corporation

13. Where a conviction adjudges a pecuniary penalty or compensation to be paid by a corporation or an order requires the payment of a sum of money by a corporation, whether the law authorizing such conviction or order does or does not provide a mode of raising or levying the penalty, compensation or sum of money, or of enforcing the payment thereof, the justice by his conviction or order after adjudging payment of such penalty, compensation or sum of money, with or without costs, may order and adjudge that in default of payment thereof forthwith, or within a limited time, such penalty, compensation or sum of money and costs, if the conviction or order is made with costs, shall be levied by distress and sale of sufficient goods and chattels

of the corporation, and for such purpose the justice may issue a warrant of distress commanding a peace officer forthwith to make sufficient distress of the goods and chattels of the corporation, and if within ten days after the making of the distress the penalty, compensation or sum of money and costs, if the conviction or order is made with costs, together with the reasonable charges of taking and keeping the distress, are not paid, then to sell the goods and chattels and to pay the money arising from the sale to the justice, and if no such distress is found, to notify the justice of such fact. R.S.O. 1960, c. 387, s. 12.

Committal for default in payment of fine

14. A warrant for committal upon default in payment of a fine or of money ordered to be paid may be issued and executed according to its terms in the same manner as a warrant for the arrest of an accused under Part XIV of the *Criminal Code* (Canada). 1968-69, c. 122, s. 1.

1953-54, c. 51 (Can.)

Return of convictions

15. Every justice shall forthwith after making a conviction or order or an order of dismissal transmit to the clerk of the peace for the county or district the conviction or order or order of dismissal together with the information, depositions and other papers relating to the case and any recognizances in respect of which proceedings are required to be taken in the court of general sessions of the peace. R.S.O. 1960, c. 387, s. 13.

Search warrant, when to be issued

16.—(1) Where a justice is satisfied by information upon oath in Form 1 that there is reasonable ground for believing that there is in any building, receptacle or place,

(*a*) anything upon or in respect of which an offence against a statute of Ontario has been or is suspected to have been committed; or

(*b*) anything which there is reasonable ground to believe will afford evidence as to the commission of any such offence,

he may at any time issue a warrant in Form 2 under his hand authorizing a constable or other person named therein to search such building, receptacle or place for any such thing, and to seize and carry it before the justice issuing the warrant or some other justice for the same territorial division to be by him dealt with according to law.

When to be executed

(2) Every search warrant shall be executed between sunrise and sunset, unless the justice by the warrant authorizes the constable or other person to execute it at night.

How things seized to be dealt with

(3) Where any such thing is seized and brought before a justice, he may detain it, taking reasonable care to preserve it until the conclusion of the investigation, and, if no one is convicted, the justice shall direct the thing to be restored to the

person from whom it was taken unless he is authorized or required by law to dispose of it otherwise. R.S.O. 1960, c. 387, s. 14.

When officers in charge of police station may take bail

17.—(1) Where a person who is charged with an offence to which this Act applies is taken into custody either with or without the warrant of a justice and is brought into a police station at any time during the day or night, the police officer in charge of the station, if he thinks the case a proper one, may take bail without fee from such person conditioned for his appearance in person or by counsel or agent before the provincial judge or other justice at the time and place therein mentioned. R.S.O. 1960, c. 387, s. 15 (1); 1966, c. 149, s. 2, *amended*.

Effect of recognizance so taken

(2) The recognizance shall be of equal obligation on the persons entering into it and the same proceedings may be taken for the estreating of it as if it had been taken before a justice.

Record of recognizance

(3) The police officer shall enter in a book the name, residence and occupation of the person entering into the recognizance and of his surety or sureties, if any, with the condition of the recognizance and the sums acknowledged.

Return of recognizance to be made

(4) The police officer shall make a return to the provincial judge or other justice present at the time when and place where the person charged is required to appear of all recognizances taken by him. R.S.O. 1960, c. 387, s. 15 (2-4), *amended*.

Appointment of agent for appearance

18.—(1) A person who is admitted to bail under subsection 1 of section 17 and deposits a sum of money may appoint the clerk of a provincial judge or other justice to act as his agent, in the event that he does not appear to answer to the charge, for the purpose of entering a plea of guilty on his behalf and authorizing the clerk to pay out of the moneys so deposited the amount of the fine and costs imposed by the provincial judge or other justice upon the conviction, and the clerk shall act as agent under this subsection without fee.

Disposition of surplus

(2) Where any moneys so deposited remain after payment of the fine and costs, the provincial judge or other justice shall cause the surplus to be returned by registered mail to the person convicted, less the expense of so doing. 1966, c. 149, s. 3, *amended*.

Affixing of seal not necessary

19. In all proceedings to which this Act applies, it is not necessary for the judge or provincial judge to affix his seal to any document, and no document is invalidated by reason of the lack of a seal even though it purports to be sealed. R.S.O. 1960, c. 387, s. 16, *amended*.

Appeal from conviction or order

20.—(1) Unless it is otherwise provided in the Act under which a conviction takes place or an order is made by a justice for the payment of money or dismissing an information, any person

who thinks himself aggrieved by any such conviction or order or order of dismissal, the prosecutor or informant as well as the defendant, may appeal to the county or district court of the county or district, as the case may be, in which the cause of the information arose.

Other rights of appeal not affected

(2) Subsection 1 does not affect any right of appeal that is otherwise provided by law.

Certiorari or motion therefor not to be granted where defendant has appealed

(3) No such order or conviction and no order or conviction made on appeal therefrom shall be removed into the Supreme Court by a writ of *certiorari* or motion instead thereof if the defendant has appealed from such order or conviction to any court to which an appeal from such order or conviction is authorized by law.

Costs of appeal

(4) Where an appeal is taken to the judge of the county or district court, the judge may award reasonable costs to either party, including counsel fees and all necessary disbursements. R.S.O. 1960, c. 387, s. 17.

Appeal to Court of Appeal

21. An appeal to the Court of Appeal as provided by this Act may be taken by the informant or by any party to the proceedings in the court from which the appeal lies. R.S.O. 1960, c. 387, s. 18.

Appeal to Court of Appeal

22.—(1) If the Attorney General for Canada or the Minister of Justice and Attorney General for Ontario certifies that, in his opinion, a judgment or decision of the Supreme Court or a judge thereof upon a stated case or upon an application to quash a conviction made under an Act of Ontario creating an offence punishable on summary conviction before a justice or to discharge a prisoner who is held in custody under such conviction, whether the conviction has been quashed or the prisoner discharged or the application refused, involves a question on the construction of *The British North America Act* (Imperial), and is of sufficient importance to justify an appeal, an appeal at the instance of the Attorney General for Canada or the Minister of Justice and Attorney General for Ontario or of any party who thinks himself aggrieved lies therefrom to the Court of Appeal.

Imp. 30-31 V., c. 3

Enforcing conviction or order

(2) After the decision of the Court of Appeal, the justice from whom the appeal was had, or any other justice exercising the same jurisdiction, has authority to enforce the order of the court upon the appeal.

Costs

(3) The defendant shall in no event be ordered to pay any costs on an appeal brought by the Attorney General for Canada or by the Minister of Justice and Attorney General for Ontario under this section. R.S.O. 1960, c. 387, s. 19.

When imprisonment to commence

23. The term of imprisonment in pursuance of any sentence shall, unless otherwise directed in the sentence, commence on and from the day on which the prisoner is lodged in jail thereunder, but no time during which the convicted person is out on bail shall be reckoned as part of the term of imprisonment to which he is sentenced. R.S.O. 1960, c. 387, s. 20.

FORM 1

(*Section 16 (1)*)

INFORMATION TO OBTAIN A SEARCH WARRANT

Province of Ontario,
County of

The information of A. B., of....., in the said County, taken the.....day of....., in the year....., before me, C. D., a Justice of the Peace for the County (*or* District, etc.) of..... who says that (*insert general description of things to be searched for and offence in respect of which search is made*), and that he has just and reasonable cause to suspect, and suspects, that the said goods and chattels, or some part of them, are contained in the (*dwelling-house, etc.*) of E. F., of....., in the said County (*or* District, etc.) (*here add the causes of suspicion, whatever they may be*). Wherefore (*he*) prays that a search warrant may be granted to him to search the (*dwelling-house, etc.*) of the said E. F., as aforesaid, for the said goods and chattels.

Sworn, etc.

C. D.,
J.P. for (*Name of County or District*).

R.S.O. 1960, c. 387, Form 1.

FORM 2

(*Section 16 (1)*)

SEARCH WARRANT

Province of Ontario,
County of

To all or any of the constables and other peace officers in the said County of....

Whereas it appears on the oath of A. B., of....., that there is reason to suspect that (*describe the things to be searched for and offence in respect of which search is made*) are contained in....., at..... This is, therefore, to authorize you to enter between the hours of (*as the Justice directs*) into the said premises, and to search for the said things and to bring them before me or some other justice of the peace.

Dated at....., in the said County of..... this.....day of....., in the year.....

C. D.
J.P. for (*Name of County or District*).

R.S.O. 1960, c. 387, Form 2.

CHAPTER 451

The Surrogate Courts Act

Interpretation

1. In this Act,

(*a*) "administration" includes all letters of administration of the effects of deceased persons, whether with or without the will annexed, and whether granted for general, special or limited purposes;

(*b*) "common form business" means the business of obtaining probate or administration where there is no contention as to the right thereto, including the passing of probate and administration through a surrogate court when the contest is terminated, and all business of a non-contentious nature to be taken in a surrogate court in matters of testacy and intestacy not being proceedings in a suit, and also the business of lodging caveats against the grant of probate of administration;

(*c*) "county" includes a provisional judicial district;

(*d*) "matters and causes testamentary" includes all matters and causes relating to the grant and revocation of letters probate of wills or letters of administration;

(*e*) "will" includes a testament and all other testamentary instruments of which probate may be granted. R.S.O. 1960, c. 388, s. 1.

Surrogate court for each county

2. There shall be in and for every county a court of record styled "The Surrogate Court of the County (*or* Judicial District *or* District) of ..... (*naming the county or district*)". R.S.O. 1960, c. 388, s. 2, *amended*.

Seal

3. Every surrogate court shall be provided with a seal approved by the Lieutenant Governor. R.S.O. 1960, c. 388, s. 3.

Sittings

4. The sittings of the surrogate court shall be held in the county court house or such other place in the county as the judge may direct and shall be presided over by the judge or a junior judge thereof. R.S.O. 1960, c. 388, s. 4.

Power to enforce judgments and orders

5. Every surrogate court has the like powers as is possessed by the Supreme Court of enforcing its judgments and orders in any part of Ontario, and may issue the like writs and process as may be issued out of the Supreme Court and the same have the like force

and effect as writs and processes issued out of the Supreme Court. R.S.O. 1960, c. 388, s. 5.

Contempt, etc.

6. Every surrogate court may punish by fine or imprisonment, or by both, for every wilful contempt of or resistance to its process, rules or orders; but the fine shall not in any case exceed $100, nor shall the imprisonment exceed six months. R.S.O. 1960, c. 388, s. 6.

Rules of evidence

practice and procedure

7. The rules of evidence observed in and, except as herein otherwise provided and subject to the surrogate court rules in contentious matters, the practice and procedure of the Supreme Court apply to the surrogate courts, and, with respect to all matters within the jurisdiction of the surrogate courts, such courts and the judges and officers thereof respectively have and may exercise all the powers of the Supreme Court and of the judges and officers thereof. R.S.O. 1960, c. 388, s. 7.

Appointment of judges, junior judges

8.—(1) The Lieutenant Governor in Council shall appoint the judges of the surrogate courts and may appoint as many junior judges of the surrogate courts as he considers necessary, and every judge and junior judge shall hold office during good behaviour and may be removed from office by the Lieutenant Governor in Council for inability, incapacity or misbehaviour established to his satisfaction.

Same judge in more than one county

(2) The same person may be appointed to and hold the office of judge or junior judge of the surrogate court of more than one county.

Salary where judge not county judge

(3) Where the judge or junior judge of a surrogate court is not also a judge or junior judge of the county court, the Lieutenant Governor in Council may fix his salary which shall be paid out of the Consolidated Revenue Fund. R.S.O. 1960, c. 388, s. 8.

Allowances where county court judge also surrogate court judge

(4) Where the judge or junior judge of a county or district court is also the judge or junior judge of a surrogate court, there shall be paid out of the Consolidated Revenue Fund,

(*a*) where the judge is the chief judge of the county or district courts, an allowance at the rate of $7,000 per annum;

(*b*) where the judge is a judge of the county court of the Judicial District of York, an allowance at the rate of $4,500 per annum;

(*c*) where the judge is a judge of any other county or district court or a junior judge of a county or district court or a judge for the county and district courts of the counties and districts of Ontario, an allowance at the rate of $3,500 per annum. 1967, c. 97, s. 1.

9.—(1) Where there is a vacancy in the office of judge or junior judge of a surrogate court or the judge or junior judge of a surrogate court is absent or ill, any judge or junior judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing may, when so directed by the Minister of Justice and Attorney General, act as judge or junior judge, as the case may be, of the surrogate court in which the vacancy exists or of which the judge or junior judge is absent or ill. R.S.O. 1960, c. 388, s. 9 (1), *amended*. Acting judge, vacancy or absence or illness of judge

(2) Where a judge or junior judge of a surrogate court requests in writing any judge or junior judge who has authority to preside over any surrogate, county or district court or any barrister of ten years standing to preside over his court, such judge, junior judge or barrister may act as judge or junior judge, as the case may be, of his court. Acting judge, on request

(3) Where a judge of a county court who is also judge of the surrogate court vacates his county court judgeship, unless the Lieutenant Governor in Council otherwise directs, he shall thereby vacate his judgeship of the surrogate court. R.S.O. 1960, c. 388, s. 9 (2, 3). When judgeship of surrogate court vacated

10. The judge of the surrogate court of a county forming a county court district or a part thereof, before entering upon the duties of his office, shall take and subscribe the following oath before the judge who, in point of time, is senior in appointment to office in the county court district, or, where such judge is unable to officiate because of illness or otherwise, before a judge designated for the purpose by the Lieutenant Governor in Council: Oath of office

I, ..., do swear that I will, truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of judge of the Surrogate Court of the ..... of ..... So help me God.

R.S.O. 1960, c. 388, s. 10.

11.—(1) The Chief Judge of the County and District Courts may assign as he considers necessary or proper from time to time any judge appointed for a county or district under this Act to exercise the powers and perform the duties of a surrogate court judge in any other county or district, and every such judge in the performance of his duties has the same powers as a judge appointed under this Act for that county or district. Judges acting outside county or district

(2) Every judge appointed under this Act who is a judge or junior judge of a county or district court has the powers of a surrogate court judge appointed under this Act in any other county or district while he is authorized to act as a county or district court judge therein. 1965, c. 129, s. 1. Idem

Appointment of registrar and staff

12.—(1) The Lieutenant Governor in Council may appoint a registrar for each surrogate court and may appoint such persons to the staff of the registrar's office as are considered necessary, and may fix their position specifications, salary ranges and terms and conditions of employment.

Temporary appointments

(2) The Minister of Justice and Attorney General, or any public servant designated by him in writing for the purpose, may make temporary appointments to the staff of a registrar's office for a term not exceeding one year. 1965, c. 129, s. 2, *amended*.

Oath of registrar

13. Every registrar, before entering upon the duties of his office, shall take and subscribe the following oath:

> "I, ..., do swear that I will diligently and faithfully execute the office of Registrar of the Surrogate Court of the ....., and that I will not knowingly permit or suffer any alteration, obliteration or destruction to be made or done, of any will or testamentary paper, or other document or paper committed to my charge. So help me God."

R.S.O. 1960, c. 388, s. 13.

Security

R.S.O. 1970, c. 382

14. Every registrar, before entering upon the duties of his office, shall furnish such security as is required by the Lieutenant Governor in Council for the due performance of the duties of his office, and the provisions of *The Public Officers Act* relating to the giving of security apply to such security. R.S.O. 1960, c. 388, s. 14.

Registrar's office

15. The registrar shall keep his office in the court house of the county, and a room therein shall be provided for that purpose, and, in the event of there being no available room therein, then at such place in the county town as the judge may direct. R.S.O. 1960, c. 388, s. 15.

Office hours

16. Except on Saturdays and holidays when they shall be closed, every surrogate court office shall be kept open from 9.30 a.m. until 4.30 p.m. R.S.O. 1960, c. 388, s. 16.

Depository for the wills of living persons

17. The office of the registrar is a depository for all wills of living persons given to him for safe keeping, and the registrar shall receive and keep the same upon payment of such fees and under such regulations as are prescribed by the surrogate court rules. R.S.O. 1960, c. 388, s. 17.

Preservation of testamentary instruments, etc.

18. The registrar shall file and preserve all original wills of which probate or letters of administration with the will annexed are granted, and all other papers used in any matter in his court, subject to such regulations as are prescribed by the surrogate court rules. R.S.O. 1960, c. 388, s. 18.

Transmission to Registrar of the Supreme Court of list of grants, etc.

19. On the third day of every month, or oftener if required by the surrogate court rules, every registrar shall transmit by mail to the Registrar of the Supreme Court a list, in such form and containing such particulars as are prescribed by such rules, of the grants of probate and administration made by his court up to the last day of the preceding month, and he shall in like manner make a return of every revocation of grant of probate or administration. R.S.O. 1960, c. 388, s. 19.

Registrar not to take fee for drawing or advising on certain documents

20. A registrar shall not for fee or reward draw or advise upon any will or upon any paper or document connected with the duties of his office for which a fee is not expressly allowed to him by the tariff. R.S.O. 1960, c. 388, s. 20.

Testamentary jurisdiction to be exercised by the surrogate courts R.S.O. 1970, c. 228

21. Subject to *The Judicature Act*, all jurisdiction and authority in relation to matters and causes testamentary, and in relation to the granting or revoking of probate of wills and letters of administration of the property of deceased persons, and all matters arising out of or connected with the grant or revocation of grant of probate or administration, are vested in the several surrogate courts. R.S.O. 1960, c. 388, s. 21.

No action for legacy or distribution of residue

22. An action for a legacy or for the distribution of a residue shall not be entertained by a surrogate court. R.S.O. 1960, c. 388, s. 22.

Administration not to be granted to non-resident

23. Letters of administration shall not be granted to a person not residing in Ontario, but this does not apply to resealing letters under section 76. R.S.O. 1960, c. 388, s. 23.

Probate or letters ancillary to persons not residing in Commonwealth

24. Letters probate shall not be granted to a person not resident in Ontario or elsewhere in the Commonwealth unless the person has given the like security as is required from an administrator in case of intestacy or in the opinion of the judge such security should under special circumstances be dispensed with or be reduced in amount. R.S.O. 1960, c. 388, s. 24, *amended*.

Grant, of probate or administration, jurisdiction

25.—(1) The granting of probate or letters of administration belongs to the surrogate court of the county in which the testator or intestate had at the time of his death his fixed place of abode.

Where decedent had no abode in Ontario

(2) If the testator or intestate had no fixed place of abode in or resided out of Ontario at the time of his death, the grant may be made by the surrogate court of any county in which the testator or intestate had property at the time of his death.

When any court may make grant

(3) In other cases the granting of probate or letters of administration belongs to any surrogate court. R.S.O. 1960, c. 388, s. 25.

Where surrogate judge is applicant

26. Where the person or one of the persons entitled to apply for probate of a will or for letters of administration is judge of the court having jurisdiction in the matter and he does not renounce, application by him for such probate or letters and any subsequent application in the matter of the estate by him or by any other person may be made to the judge of the surrogate court for an adjoining county who has the same authority as to such application and generally in all matters connected with the estate as if he were the judge of the surrogate court having jurisdiction, and he is entitled to the same fees as he would have been entitled to if the application had been made or proceedings had been taken in the court of which he is judge. R.S.O. 1960, c. 388, s. 26.

Effect of probate granted without jurisdiction

27. Letters probate and letters of administration granted by a surrogate court not having jurisdiction to grant the same have, until revoked, the same force and effect as if they had been granted by a surrogate court having jurisdiction. R.S.O. 1960, c. 388, s. 27.

Effect of probate and administration

28. Letters probate and letters of administration have effect in all parts of Ontario. R.S.O. 1960, c. 388, s. 28.

Trial of questions of fact by a jury

29.—(1) The court may cause any question of fact arising in any proceeding therein to be tried by a jury before the judge of the court, and such trial shall take place at some ensuing sittings of the county court for the county, and be conducted in the same manner as other trials by jury in such court, and the parties are entitled to their right of challenge, and for all purposes of or incidental to the trial of questions of fact by a jury the court and the judge thereof have the same jurisdiction, power and authority in all respects as belong to the county courts and the judges thereof for like purposes.

The issue

(2) The question directed to be tried by a jury shall be reduced to writing in such form as the court may direct. R.S.O. 1960, c. 388, s. 29.

Production of instruments purporting to be testamentary

30.—(1) Whether a suit or other proceeding is or is not pending in the court with respect to a probate or administration, every surrogate court may, on motion or otherwise in a summary way, order any person to produce and bring before the registrar, or otherwise as the court may direct, any paper or writing being or purporting to be testamentary that is shown to be in the possession or under the control of such person.

Examination of persons touching such instruments

(2) If it is not shown that such paper or writing is in the possession or under the control of such person, but it appears that there are reasonable grounds for believing that he has knowledge of such paper or writing, the court may direct such person to attend for the purpose of being examined in open court or before the registrar or such person as the court may direct, or upon

interrogatories respecting the same, and to produce and bring in such paper or writing, and such person is subject to the like process in case of default in not attending or in not answering questions or interrogatories or not bringing in such paper or writing, as he would have been subject to if he had been a party to a suit in the court and had made such default, and the costs of such motion or other proceeding are in the discretion of the court. R.S.O. 1960, c. 388, s. 30.

Removal of proceeding to S.C.O.

31.—(1) Any contentious cause or proceeding may be removed into the Supreme Court by order of a judge of such court if it is of such a nature and of such importance as to render it proper that it should be disposed of by the Supreme Court, and the property of the deceased exceeds $20,000 in value. R.S.O. 1960, c. 388, s. 31 (1); 1961-62, c. 136, s. 1.

Terms

(2) The judge may impose such terms as to payment of or security for costs or otherwise as he considers just.

Transmission of judgment to surrogate court

(3) The judgment of the Supreme Court in any cause or proceeding so removed shall be certified to the registrar of the surrogate court from which the cause or proceeding was removed. R.S.O. 1960, c. 388, s. 31 (2, 3).

Right of appeal

32.—(1) Any party or person taking part in the proceedings may appeal to the Court of Appeal from any order, determination or judgment of a surrogate court or a judge thereof in any matter or cause if the value of the property affected by such order, determination or judgment exceeds $200.

Rights of persons interested to appeal

(2) Where the claimant or personal representative having a right of appeal does not appeal from the order, judgment or determination, the Official Guardian or any person beneficially interested in the estate may, by leave of a judge of the Court of Appeal, appeal therefrom.

Rights of persons interested to be heard at appeal

(3) The Official Guardian or any person beneficially interested in the estate, may, by leave of a judge of the Court of Appeal, appear and be heard upon any such appeal.

Manner and time of appeal

(4) Every appeal under this section shall be made by notice of motion served upon all parties interested within thirty days after the date of the judgment, determination or order appealed from, and when the circumstances of any case in the opinion of a judge of the Court of Appeal so warrant, he may permit service to be effected by registered mail.

Extension of time for appeal

(5) The time limited for appeal by this section may be extended by a judge of the Court of Appeal either before or after the expiry of the time limit.

Rules of court

(6) The rules of court apply to such appeals. R.S.O. 1960, c. 388, s. 32.

Appeals from interlocutory orders, etc.

33. In the case of any order, determination or judgment made or given by a surrogate court or a judge thereof in respect of which an appeal is not otherwise provided under this Act, an appeal lies to a judge of the Supreme Court, and the practice and procedure governing appeals from the Master of the Supreme Court apply to every such appeal. 1962-63, c. 137, s. 1.

Where deceased resided in Ontario

34.—(1) On every application for probate of a will or for letters of administration where the deceased was resident in Ontario at the time of his death, his place of abode at the time of his death shall be made to appear by affidavit of the person or one of the persons making the application, and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted.

Death or absence of witnesses of will of member of forces or mariner

(2) Where upon the application for probate of the will of a person who at the time of the execution of the will was a member of the forces or was a mariner or seaman at sea or in the course of a voyage it appears that the witnesses are dead or are incompetent or that the whereabouts of the witnesses, or either of them, is unknown, the judge of the surrogate court to whom the application is made may accept such evidence as he considers satisfactory as to the validity and proper execution of such will, notwithstanding anything in this Act or in the rules or regulations of the surrogate court to the contrary.

Interpretation

(3) In subsection 2, "members of the forces" means a member of the Canadian forces who, having been placed on active service or called out for training, service or duty, was serving in such forces.

Probate not to be granted until judge has proof of no undervaluation

(4) No probate or letters of administration shall be granted until the judge is satisfied that there is no undervaluation of the estate of which probate or administration is being sought.

Issue of probate before valuation

(5) In cases where there is a necessity for the speedy issue of probate or administration and there is difficulty in ascertaining the true valuation of an estate, the judge may report the same to the Minister of Revenue, and such probate or administration may be issued upon the written consent of the Minister of Revenue or someone authorized by him to consent in such cases.

Rules and regulations

(6) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may make rules and regulations for the better carrying out of subsections 4 and 5. R.S.O. 1960, c. 388, s. 33, *amended*.

Where deceased had no fixed place of abode in Ontario

35. On every application for probate of a will or for letters of administration where the deceased had no fixed place of abode in or resided out of Ontario at the time of his death, the same shall be made to appear by affidavit of the person or one of the persons making the application, and that the deceased died leaving

property in the county to the surrogate court of which the application is made, or leaving no property in Ontario, as the case may be, and thereupon and upon proof of the will or, in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted. R.S.O. 1960, c. 388, s. 34.

Conclusiveness of affidavits

36. The affidavit as to the place of abode and property of the deceased under sections 34 and 35, for the purpose of giving a particular court jurisdiction is conclusive for the purpose of authorizing the exercise of such jurisdiction, and no grant of probate or administration is liable to be recalled, revoked or otherwise impeached by reason that the deceased had no fixed place of abode in the particular county, or had not property therein at the time of his death, but in case it is made to appear to the judge of the surrogate court before whom the application is pending that the place of abode of the deceased, or the situation of his property, has not been correctly stated in the affidavit, the judge may stay all further proceedings and make such order as to the costs of the proceedings before him as he considers just. R.S.O. 1960, c. 388, s. 35.

Proof, etc., requisite for obtaining grant to party not next-of-kin to intestate

37. Where application is made for letters of administration by a person not entitled to the same as next-of-kin of the deceased, an order shall be made requiring the next-of-kin, or others having or pretending interest in the property of the deceased, resident in Ontario, to show cause why the administration should not be granted to the person applying therefor; and if neither the next-of-kin nor any person of the kindred of the deceased resides in Ontario, a copy of the order shall be served or published in the manner prescribed by the surrogate court rules. R.S.O. 1960, c. 388, s. 36.

Temporary administration in certain cases

38.—(1) If the next-of-kin, usually residing in Ontario and regularly entitled to administer, is absent from Ontario, the court having jurisdiction may grant a temporary administration to the applicant, or to such other person as the court thinks fit, for a limited time, or subject to be revoked upon the return of such next-of-kin to Ontario.

Security to be given

(2) The administrator so appointed shall give such security as the court may direct, and has all the rights and powers of a general administrator, and is subject to the immediate control of the court. R.S.O. 1960, c. 388, s. 37.

Quebec notarial wills

39. Subject to subsection 3 of section 76, a notarial will made in the Province of Quebec may be admitted to probate without the production of the original will upon filing a notarial copy thereof together with the other proper proofs to lead grant. R.S.O. 1960, c. 388, s. 38.

Notice to Registrar of the Supreme Court of applications

40. Notice of every application for the grant of probate or administration shall be transmitted by the registrar by registered mail to the Registrar of the Supreme Court by the next post after the application, and the notice shall specify the name and description or addition, if any, of the deceased, the time of his death, and the place of his abode at his decease, as stated in the affidavits made in support of the application, and the name of the person by whom the application is made, and such other particulars as are prescribed by the surrogate court rules. R.S.O. 1960, c. 388, s. 39.

Certificate from Registrar of the Supreme Court

41. Unless upon special order of the court, no probate or administration shall be granted until the registrar has received a certificate under the hand of the Registrar of the Supreme Court that no other application appears to have been made in respect of the property of the deceased, which certificate the Registrar of the Supreme Court shall forward as soon as may be to the registrar. R.S.O. 1960, c. 388, s. 40.

Registrar of the Supreme Court to file notices

42. All notices in respect of applications shall be filed and kept by the Registrar of the Supreme Court. R.S.O. 1960, c. 388, s. 41.

Duty of Registrar of the Supreme Court with reference to notices

43. The Registrar of the Supreme Court shall, with reference to every such notice, examine all notices of such applications received from the several registrars so far as appears to be necessary to ascertain whether or not application for probate or administration in respect of the property of the deceased has been made in more than one surrogate court, and he shall communicate with the registrars as occasion requires in relation to such applications. R.S.O. 1960, c. 388, s. 42.

Where application made to more than one surrogate court

44.—(1) Where it appears by the certificate of the Registrar of the Supreme Court that application for probate or administration has been made to two or more surrogate courts, the judges of such courts respectively shall stay proceedings therein, leaving the parties to apply to a judge of the Supreme Court for such direction in the matter as he considers necessary.

Judgment as to what court has jurisdiction

(2) On application made to such judge, he shall inquire into the matter in a summary way and adjudge and determine what surrogate court has jurisdiction.

Order as to costs

(3) The judge may order costs to be paid by any of the applicants, and the order shall be enforced by the Supreme Court.

Judge's decision final

(4) The determination of the judge is final and conclusive, and the Registrar of the Supreme Court shall without delay transmit a certified copy of the judge's order to the registrars of the surrogate courts wherein such applications were made. R.S.O. 1960, c. 388, s. 43.

Caveats

45. Caveats against the grant of probate or administration may be lodged with the Registrar of the Supreme Court or with the registrar of a surrogate court. R.S.O. 1960, c. 388, s. 44.

Notice of caveats

46. Upon a caveat being lodged, the registrar shall without delay send a copy thereof to the Registrar of the Supreme Court to be entered among the caveats lodged with him, and, upon notice of an application being received from the registrar of a surrogate court under section 40, the Registrar of the Supreme Court shall without delay forward to him notice of any caveat that has been so lodged touching such application, and the notice shall accompany or be embodied in the certificate mentioned in section 41. R.S.O. 1960, c. 388, s. 45.

Citation of persons interested

47. Where proceedings are taken for proving a will in solemn form or for revoking the probate of a will on the ground of the invalidity thereof or where in any other contentious cause or matter the validity of a will is disputed, all persons having or pretending to have an interest in the property affected by the will may, subject to this Act and to the surrogate court rules, be summoned to see the proceedings and may be permitted to become parties, subject to such rules and to the discretion of the court. R.S.O. 1960, c. 388, s. 46.

Citation to prove or renounce

48. The court having jurisdiction may summon any person named executor of any will to prove, or refuse to prove, such will, and to bring in inventories and to do every other thing necessary or expedient concerning the same. R.S.O. 1960, c. 388, s. 47.

Consequences of failure to appear

49. When an executor survives the testator, but dies without having taken probate, and when an executor is summoned to take probate, and does not appear, his right in respect of the executorship wholly ceases, and the representation to the testator, and the administration of his property, without any further renunciation, goes, devolves, and is committed in like manner as if such person had not been appointed executor. R.S.O. 1960, c. 388, s. 48.

Where an infant sole executor

50.—(1) Where an infant is sole executor, administration with the will annexed shall be granted to the guardian of the infant or to such other person as the court thinks fit, until the infant has attained the full age of twenty-one years, at which time, and not before, probate of the will may be granted to him.

Power of administrator in such case

(2) The person to whom such administration is granted has the same powers as an administrator has by virtue of an administration granted to him *durante minore aetate* of the next-of-kin. R.S.O. 1960, c. 388, s. 49.

Official copies

51. An official copy of the whole or any part of a will or an official certificate of the grant of any letters of administration

may be obtained from the registrar on payment of the prescribed fees. R.S.O. 1960, c. 388, s. 50.

Administration pending action

52. Pending an action touching the validity of the will of a deceased person, or for obtaining, recalling or revoking any probate or grant of administration, the surrogate court having jurisdiction to grant administration in the case of intestacy may appoint an administrator of the property of the deceased person, and the administrator so appointed has all the rights and powers of a general administrator, other than the right of distributing the residue of the property, and every such administrator is subject to the immediate control and direction of the court, and the court may direct that such administrator shall receive out of the property of the deceased such reasonable remuneration as the court considers proper. R.S.O. 1960, c. 388, s. 51.

To what persons administration shall be granted

53.—(1) Subject to subsection 3, where a person dies intestate or the executor named in the will refuses to prove the will, administration of the property of the deceased may be committed by the surrogate court having jurisdiction to the husband, or to the wife, or to the next-of-kin, or to the wife and next-of-kin, as in the discretion of the court seems best, and, where more persons than one claim the administration as next-of-kin who are equal in degree of kindred to the deceased, or where only one desires the administration as next-of-kin where there are more persons than one of equal kindred, the administration may be committed to such one or more of such next-of-kin as the court thinks fit.

Appointment at request of parties interested

(2) Subject to subsection 3, where a person dies wholly intestate as to his property, or leaving a will affecting property but without having appointed an executor thereof, or an executor willing and competent to take probate and the persons entitled to administration, or a majority of such of them as are resident in Ontario, request that another person be appointed to be the administrator of the property of the deceased, or of any part of it, the right that such persons possessed to have administration granted to them in respect of it belongs to such person.

General power as to appointment of administrator under special circumstances

(3) Where a person dies wholly intestate as to his property, or leaving a will affecting property but without having appointed an executor thereof willing and competent to take probate, or where the executor was at the time of the death of such person resident out of Ontario, and it appears to the court to be necessary or convenient by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the property of the deceased, or of any part of such property, other than the person who if this subsection had not been enacted would have been entitled to the grant of administration, it is not obligatory upon the court to grant administration to the person who if this subsection had not been

enacted would have been entitled to a grant thereof, but the court may appoint such person as it thinks fit upon his giving such security as it may direct, and every such administration may be limited as it thinks fit.

(4) A trust company may be appointed as administrator under subsection 2 or 3, either alone or jointly with another person. R.S.O. 1960, c. 388, s. 52. Appointment of trust company

54. After a grant of administration, no person, other than the administrator or executor, has power to sue or prosecute any action or otherwise act as executor of the deceased as to the property comprised in or affected by such grant of administration until such administration has been recalled or revoked. R.S.O. 1960, c. 388, s. 53. After grant of administration no person to act as executor

55. A person entitled to letters of administration to the property of a deceased person is entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate. R.S.O. 1960, c. 388, s. 54. Administration limited to personal estate

56.—(1) The person applying for a grant of probate or administration shall before it is granted make or cause to be made and delivered to the registrar a true and perfect inventory, verified by the oath of the applicant, of all the property that belonged to the deceased at the time of his death. Filing inventory

(2) When after the grant of probate or letters of administration any property belonging to the deceased at the time of his death and not included in such inventory is discovered by the executor or administrator, he shall, within six months thereafter, make and deliver to the registrar an inventory, duly verified by oath, of such newly discovered property. Further inventory of subsequently discovered property

(3) Where the application or grant is limited to part only of the property of the deceased, it is sufficient to set forth in such inventory the property intended to be affected by such application or grant. R.S.O. 1960, c. 388, s. 55. Inventory in case of limited grant

57.—(1) Where after a grant has issued out of the surrogate court the value of the estate has been increased for succession duty purposes, the executor or administrator shall forthwith pay to the registrar of the court from which the grant issued the additional fees that would have been payable at the time of the issue if the value of the estate had been placed at the amount to which it has been so increased, and the registrar shall account for such additional fees in the same manner as if they had been paid at the time of the issue of the grant. Fees on increased valuation

(2) Where after a grant has issued out of the surrogate court the value of the estate has been decreased for succession duty Fees on decreased valuation

purposes, the executor or administrator may apply to the registrar of the court from which the grant issued for a refund of the amount of the difference between the amount of the fees paid and the amount of the fees that would have been payable at the time of the issue if the value of the estate had been placed at the amount to which it was so decreased, and the registrar shall make such refund and amend his records accordingly. R.S.O. 1960, c. 388, s. 56, *amended*.

Consequences upon executor renouncing

58. Where a person renounces probate of the will of which he is appointed an executor, his rights in respect of the executorship wholly cease, and the representation to the testator and the administration of his property, without any further renunciation, goes, devolves and is committed in like manner as if such person had not been appointed executor. R.S.O. 1960, c. 388, s. 57.

Bonds

59. Except where otherwise provided by law, every person to whom a grant of administration, including administration with the will annexed, is committed shall give a bond to the judge of the court by which the grant is made, to enure for the benefit of the judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose, with a surety or sureties as may be required by the judge, conditioned for the due collecting, getting in, administering and accounting for the property of the deceased, and the bond shall be in the form prescribed by the surrogate court rules, and in cases not provided for by the rules, the bond shall be in such form as the judge by special order may direct. R.S.O. 1960, c. 388, s. 58.

When security not required

60. It is not necessary for the Government of Ontario or any department thereof or any Provincial commission or board created under any Act of the Legislature to give any security for the due performance of its duty as executor, administrator, trustee, committee, or in any other office to which it may be appointed by order of the court or under any Act. R.S.O. 1960, c. 388, s. 59.

Amount of security

61.—(1) The bond shall be in a penalty of double the amount under which the property of the deceased has been sworn, and the judge may direct that more than one bond be given so as to limit the liability of any surety to such amount as the judge considers proper.

Power to reduce amount

(2) The judge may at any time under special circumstances reduce the amount of or dispense with the bond. R.S.O. 1960, c. 388, s. 60.

Power of courts as to assignment of bonds

62. The judge on application made in a summary way and on being satisfied that the condition of the bond has been broken

may order the registrar to assign the bond to some person to be named in the order, and such person is thereupon entitled to sue on the bond in his own name as if it had been originally given to him, and shall recover thereon as trustee for all persons interested the full amount recoverable in respect of any breach of the condition of the bond. R.S.O. 1960, c. 388, s. 61.

Accounts to be rendered

63. The oaths to be taken by executors, administrators and guardians, and the bonds or other security to be given by administrators and guardians, and probates, letters of administration and letters of guardianship shall require the executor, administrator or guardian to render a just and full account of his executorship, administration or guardianship only when thereunto lawfully required. R.S.O. 1960, c. 388, s. 62.

New or additional security in certain cases

64.—(1) Where a surety for an administrator or guardian dies or becomes insolvent or where for any other reason the security furnished by an administrator or guardian becomes inadequate or insufficient, the judge may require other or additional security to be furnished, and if it is not furnished as directed by the judge, he may revoke the grant of administration or letters of guardianship.

Order by judge or on application

(2) The order may be made by the judge on his own initiative or on the application of any person interested. R.S.O. 1960, c. 388, s. 63, *amended*.

Substitution of security

65.—(1) Where a surety for an administrator or guardian desires to be discharged from his obligation or where an administrator or guardian desires to substitute other security for that furnished by him, the judge may allow other security to be furnished in lieu of that of such surety or of the security so furnished on such terms as he considers proper, and he may direct that, on the substituted security being furnished, and, if the judge so directs, the accounts of the administrator or guardian being passed, the surety or sureties be discharged.

How application made

(2) The application may be made *ex parte* or on such notice as the judge may direct. R.S.O. 1960, c. 388, s. 64.

Cancellation of security

66. Where an executor or administrator has passed his final account and has paid into court or distributed the whole of the property of the deceased that has come to his hands, the judge may direct the bond or other security furnished by the executor or administrator to be delivered up to be cancelled. R.S.O. 1960, c. 388, s. 65.

Cancellation of bond of administrator in distribution of estate

67. Where an executor or administrator has produced evidence to the satisfaction of the judge that the debts of the deceased have been paid and the residue of the estate duly distributed, the judge may make an order directing the bond or other security furnished by the executor or administrator to be

delivered up to be cancelled, but where an infant was or is entitled to a part of the estate under the distribution, the order shall not be made until after such notice as the judge may direct has been given to the Official Guardian, and where any person who is a patient in a psychiatric facility under *The Mental Health Act* was or is entitled to a part of the estate under the distribution, the order shall not be made until after like notice has been given to the Public Trustee. R.S.O. 1960, c. 388, s. 66, *amended*.

R.S.O. 1970, c. 269

Contestation of claims against estate

68.—(1) Where a claim or demand is made against the estate of a deceased person or where the personal representative has notice of such claim or demand, he may serve the claimant with a notice in writing that he contests the same in whole or in part, and, if in part, stating what part, and also referring to this section.

Application for order allowing claim

(2) Within thirty days after the receipt of such notice of contestation or within three months thereafter if the judge of the surrogate court on application so allows, the claimant may, upon filing with the registrar a statement of his claim verified by affidavit and a copy of the notice of contestation, apply to the judge of the surrogate court for an order allowing his claim and determining the amount of it, and the judge shall hear the parties and their witnesses and shall make such order upon the application as he considers just, and if the claimant does not make such application, he shall be deemed to have abandoned his claim and it is forever barred.

Claim within jurisdiction of small claims court

(3) Where the claim is within the jurisdiction of the small claims court, an application for the extension of time referred to in subsection 2 and the application for the order shall be made to the judge of a small claims court in which an action for the recovery of the claim might be brought, and the application for the order shall be heard by the judge at the sittings of such court, but where the claimant and the personal representative consent, the applications may be made to the judge of the surrogate court.

Notice in such cases

(4) Not less than seven days notice of the application shall be given to the personal representative, and where the application is to be made to the judge of the surrogate court, shall also be given to the Official Guardian if infants are concerned, and to such, if any, of the persons beneficially interested in the estate as the judge may direct.

Right of persons interested to be heard

(5) Where the application is made to the judge of the surrogate court, in addition to the persons to whom notice has been given, any other person who is interested in the estate has the right to be heard and to take part in the proceedings.

Consent to jurisdiction of surrogate court in certain cases

(6) Where the claim, or the part of it that is contested, amounts to $800 or more, instead of proceeding as provided by this section, the judge shall, on the application of either party, or of any of the parties mentioned in subsection 5, direct the creditor

to bring an action for the recovery or the establishment of his claim, on such terms and conditions as the judge considers just but, where the claimant and the personal representative consent to have the trial before the judge of the surrogate court, the trial shall take place and be disposed of before the surrogate court judge under this section.

Fees and costs when claim within small claims court jurisdiction

(7) Where the claim is within the jurisdiction of the small claims court, the fees and costs shall be according to the tariff of that court and in other cases the fees payable to the judge of the surrogate court and to the registrar shall be the same as are allowed on an audit in an estate of a value equal to the amount of the claim or so much thereof as is contested, and the fees to be allowed to counsel or solicitors shall be fixed and determined by the surrogate judge having regard to the amount involved and the importance of the contest.

Claims not presently payable

(8) This section applies, notwithstanding that the claim or demand is not presently payable, and that, for that reason, an action for the recovery of it could not be brought.

Application for order allowing commission

(9) The judge may order the issue of a commission to take the testimony of any person or party residing out of Ontario.

Judge may make an order appointing a person to take testimony

(10) The judge may make an order for the taking of the evidence of any material and necessary witness residing in Ontario who is sick, aged or infirm or is about to leave Ontario *de bene esse* and provide to whom notice of the examination is to be given.

Right to issue subpoenas

(11) A subpoena may be issued to enforce the attendance of witnesses to give evidence on any proceeding under this section.

Rules of Supreme Court apply

(12) The rules of the Supreme Court so far as they are applicable apply to every application for such commission or order for examination, the issue, execution, enforcement and return thereof and the judge has power to award costs of all such proceedings according to the tariff in force from time to time for like services in county courts.

Permission for enforcement of judgment

(13) Where a claim is established under this section, no proceedings shall be taken to enforce payment of the claim without the permission of the judge.

Enforcement of judgment

(14) Where permission to enforce payment of a claim is given, the order shall be filed in the county court and an execution shall issue as upon a judgment of that court and an order for payment of costs may be entered in the same way. R.S.O. 1960, c. 388, s. 67, *amended*.

Notice of contestation of unliquidated claims

69.—(1) Where any claim or demand not within the meaning of subsection 1 of section 68 is made against the estate of a deceased person or where the personal representative has notice

or knowledge of the claim or demand, he may serve the claimant with the notice prescribed in the said subsection.

Application by claimant for order for directions

(2) Within the time limits mentioned in subsection 2 of section 68, the claimant may, upon filing with the registrar a statement of his claim verified by affidavit and a copy of the notice of contestation, apply to the judge of the surrogate court for an order for directions as to the disposition of the claim or demand, and if the claimant does not make the application he shall be deemed to have abandoned his claim, and it is forever barred.

Notice in such cases

(3) Not less than seven days notice of the application shall be given to the personal representative and to the Official Guardian if infants are concerned and to such, if any, of the persons beneficially interested in the estate as the judge may direct.

Powers of judge

(4) The judge shall make such order upon the application for directions as he considers just and, in particular but without limiting the generality of the foregoing, he may,

(*a*) direct the claimant to bring an action for the recovery or establishment of his claim on such terms and conditions as he considers just; and

(*b*) where the claim or demand is not presently recoverable, prescribe the time after which the claimant shall proceed pursuant to the directions.

Idem

(5) By consent of the claimant and personal representative, the judge may direct that the trial take place and be disposed of before the surrogate court judge.

Application of parts of s. 68

(6) When an order is made under subsection 4, subsections 9, 10, 11 and 12 of section 68 apply.

Right of persons interested to appeal

(7) If the personal representative does not appeal from an order made under subsection 2 or 4, the Official Guardian or any person beneficially interested in the estate may, by leave of a judge of the Supreme Court, appeal therefrom.

Right of persons interested to be heard on appeal

(8) Where the claimant or the personal representative appeals from an order made under subsection 2 or 4, the Official Guardian and any person beneficially interested in the estate may, by leave of the court that hears the appeal, appear and be heard. R.S.O. 1960, c. 388, s. 68.

Summary determination of disputes as to ownership

70. Where the personal representative of a person claims the ownership of any personal property not exceeding in value $800 and his claim is disputed by any other person, the dispute may be determined in a summary manner and section 68 applies *mutatis mutandis*. R.S.O. 1960, c. 388, s. 69.

R.S.O. 1970, c. 246 not to apply in certain cases

71.—(1) *The Limitations Act* does not affect the claim of a person against the estate of a deceased person where notice of the claim giving full particulars of the claim and verified by affidavit,

is filed with the executor or administrator of the estate at any time prior to the date upon which the claim would be barred by *The Limitations Act*, but where no executor or administrator has been appointed, the notice may be filed in the office of the registrar of the surrogate court of the county where the deceased person resided at the date of his death. R.S.O. 1970, c. 246

(2) Where the claim of a person against any other person would be barred by *The Limitations Act* at any time within three months after the death of the person having the claim, the claim shall for all purposes be deemed not to be barred until three months after the date of such death. R.S.O. 1960, c. 388, s. 70. Special provision

72. An executor who is also a trustee under the will may be required to account for his trusteeship in the same manner as he may be required to account in respect of his executorship. R.S.O. 1960, c. 388, s. 71. Accounting by executor trustee

73.—(1) Where an executor, administrator, trustee under a will of which he is an executor, or a guardian, has filed in the proper surrogate court an account of his dealings with the estate, and the judge has approved thereof, in whole or in part, if he is subsequently required to pass his accounts in the Supreme Court, such approval, except so far as mistake or fraud is shown, is binding upon any person who was notified of the proceedings taken before the surrogate judge or who was present or represented thereat and upon every one claiming under any such person. Effect of approval of accounts by surrogate judge

(2) A guardian appointed by the surrogate court may pass the accounts of his dealings with the estate before the judge of the court by which letters of guardianship were issued. Passing accounts by guardians

(3) The judge, on passing the accounts of an executor, administrator or such a trustee, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and the administration and disbursement thereof in as full and ample a manner as may be done in the Master's office under an administration order, and, for such purpose, may take evidence and decide all disputed matters arising in such accounting, subject to appeal. Powers of judge on passing accounts

(4) The judge, on passing any accounts under this section, has power to inquire into any complaint or claim by any person interested in the taking of the accounts of misconduct, neglect, or default on the part of the executor, administrator or trustee occasioning financial loss to the estate or trust fund, and the judge, on proof of such claim, may order the executor, administrator or trustee, to pay such sum by way of damages or otherwise as he considers proper and just to the estate or trust fund, but any order made under this subsection is subject to appeal. Further powers

May order trial and give directions as to pleadings, etc.

(5) The judge may order the trial of an issue of any complaint or claim under subsection 4, and in such case he shall make all necessary directions as to pleadings, production of documents, discovery and otherwise in connection with the issue.

Removal to Supreme Court

(6) Any person interested in the taking of such accounts, or any executor, administrator or trustee against whom any complaint or claim has been made on the passing of such accounts as provided in subsection 4 may apply to a judge of the Supreme Court for an order removing the proceedings to the Supreme Court, if in his opinion the claim is of such a nature or of such importance as to render it proper that it should be disposed of by the Supreme Court, and for the purpose of making such application, the applicant is entitled to an adjournment of the proceedings in the surrogate court.

Notice to persons interested

(7) The persons interested in the taking of such accounts or the making of such inquiries are, if resident in Ontario, entitled to not less than seven days notice thereof, and, if resident out of Ontario, are entitled to such notice as the judge may direct. R.S.O. 1960, c. 388, s. 72 (1-7).

Notice to persons under disability R.S.O. 1970, c. 269

(8) Where a person entitled to notice under subsection 7 is an infant or is of unsound mind and is not a patient in a psychiatric facility under *The Mental Health Act*, his notice shall be served upon the Official Guardian not less than twenty-one days before the day appointed for the passing of the accounts, and unless such notice is so given such person is not bound by the passing of the accounts.

Idem, in mental hospital

(9) Where a person entitled to notice under subsection 7 is a patient in a psychiatric facility under *The Mental Health Act*, his notice shall be served upon the Public Trustee not less than twenty-one days before the day appointed for the passing of the accounts, and unless such notice is so given such person is not bound by the passing of the accounts. R.S.O. 1960, c. 388, s. 72 (8, 9), *amended*.

Notice of taking accounts to be served on Public Trustee

(10) Where by the terms of a will or other instrument in writing under which such an executor, administrator or trustee acts, real or personal property or any right or interest therein, or proceeds therefrom have heretofore been given, or are hereafter to be vested in any person, executor, administrator or trustee for any religious, educational, charitable or other purpose, or are to be applied by him to or for any such purpose, notice of taking the accounts shall be served upon the Public Trustee.

Where person to whom administration granted is not next-of-kin

(11) Where a person has died intestate in Ontario and administration has been granted to some person, not one of the next-of-kin, and it appears to be doubtful whether the intestate left any next-of-kin him surviving or that there are no known next-of-kin resident in Ontario, notice of taking the accounts shall be served upon the Public Trustee.

(12) Where accounts submitted to the judge of a surrogate court are of an intricate or complicated character and in his opinion require expert investigation, he may appoint an accountant or other skilled person to investigate and to assist him in auditing the accounts. R.S.O. 1960, c. 388, s. 72 (10-12). Appointment of expert on examination of accounts

74.—(1) An executor or an administrator shall not be required by any court to render an account of the property of the deceased, otherwise than by an inventory thereof, unless at the instance or on behalf of some person interested in such property or of a creditor of the deceased, nor is an executor or administrator otherwise compellable to account before any judge. At whose instance executors or administrators compellable to account

(2) This section applies notwithstanding any provision to the contrary of any bond or security heretofore given by the executor or administrator. R.S.O. 1960, c. 388, s. 73. Application

75.—(1) Where letters probate, letters of administration or letters of guardianship are sought and the whole property of the deceased or of the ward does not exceed in value $1,000, the registrar shall prepare the necessary papers leading to the grant sought, including all papers and proofs required by *The Succession Duty Act*, and the bond, if any, and he shall administer the necessary oaths, and the total amount to be charged to the applicant for all the proceedings and services shall be $2. R.S.O. 1960, c. 388, s. 74 (1); 1968-69, c. 124, s. 1. Fees where estate does not exceed $1,000

R.S.O. 1970, c. 449

(2) Where letters probate, letters of administration or letters of guardianship are sought and the whole property of the deceased or of the ward does not exceed $1,000, the fees payable to the judge and the registrar shall be one-half of the fees payable according to the tariff in the case of an estate not exceeding in value $1,000. Where property does not exceed $1,000

(3) If the judge has reason to believe that the property exceeds in value $1,000, he shall refuse to proceed with the application until he is satisfied as to the real value. Judge may satisfy himself as to real value

(4) Subject to subsection 1, where the whole property of the deceased or of the ward consists of insurance money or of insurance money and wearing apparel, although general letters probate, general letters of administration or letters of guardianship are sought, the fees payable thereon shall be as follows: Fees where estate consists of insurance moneys and wearing apparel

1. Where the insurance money does not exceed $1,000 ..... $4
2. Where the insurance money exceeds $1,000 but does not exceed $2,000 ..... $6
3. Where the insurance money exceeds $2,000 but does not exceed $3,000 ..... $8

Apportionment of fees

(5) The Lieutenant Governor in Council may apportion the fees payable between the judge and the registrar.

Fees to be exclusive of fees payable to Crown

(6) The fees prescribed by this section are exclusive of any other fees payable to the Crown, and do not include the fees payable in respect of contentious business. R.S.O. 1960, c. 388, s. 74 (2-6).

Manner of giving effect to grants of probate, etc., of English or Colonial Courts

76.—(1) Where probate or letters of administration or other legal document purporting to be of the same nature granted by a court of competent jurisdiction in the United Kingdom or in a province or territory of Canada or in any British possession is produced to and a copy thereof deposited with the registrar of any surrogate court and the prescribed fees are paid as on a grant of probate or administration, the probate or letters of administration or other document shall, under the direction of the judge, be sealed with the seal of the surrogate court, and thereupon is, as to personal property, of the like force and effect in Ontario as if the same had been originally granted by such surrogate court, and is, so far as regards Ontario, subject to any order made by such court, or on appeal therefrom, as if the probate or letters of administration had been granted thereby.

Letters of verification in Quebec

(2) Subject to subsection 3, letters of verification issued in the Province of Quebec shall be deemed to be a probate within the meaning of this section.

Effect of re-sealing as to real property R.S.O. 1970, c. 499

(3) Where it has been shown that the will was executed in manner and form sufficient to pass real property in Ontario under *The Wills Act* and the judge so certifies, the sealing has the same effect as to real property as if probate had been granted by the surrogate court.

Security required

(4) The letters of administration shall not be sealed with the seal of the surrogate court until a certificate has been filed under the hand of the registrar of the court that issued the letters that security has been given in such court in a sum of sufficient amount to cover as well the assets within the jurisdiction of such court as the assets within Ontario, or in the absence of such certificate, until like security is given to the judge of the surrogate court covering the assets in Ontario as in the case of granting original letters of administration. R.S.O. 1960, c. 388, s. 75.

Rehearing

77.—(1) Where the judge before whom any matter or proceeding under this Act is tried dies before disposing of it or having heard it has not disposed of it within six months thereafter, any party may, upon notice to all other parties, apply to the Chief Judge of the County and District Courts for an order that the matter or proceeding be reheard by such judge or junior judge of a surrogate court as he may designate.

(2) An order made under subsection 1 shall name the place where the matter or proceeding is to be reheard and, in making such order, the chief judge may give such other directions as he considers fit. Idem

(3) No proceedings in the matter or proceeding shall thereafter be taken without the order of the chief judge after notice. Further proceedings

(4) Upon such rehearing, the evidence, exhibits and papers used at the trial shall be read and, after argument by counsel, the presiding judge shall deal with the action as on an original trial and shall direct that judgment be entered by the county court clerk in accordance with his findings. Judgment on rehearing

(5) The costs of the rehearing shall be fixed by the judge presiding at the rehearing, who shall also direct by whom they are to be paid. Costs of rehearing

(6) An appeal lies from such judgment or finding in the same manner and on the same terms as if the judgment had been pronounced at the trial. 1961-62, c. 136, s. 2. Appeal

78.—(1) The fees payable upon the value of the estate of the deceased shall be calculated upon the value of the whole estate, including the real estate as well as the personal estate. Fees to be on value of whole estate

(2) In calculating the value of the real property, there shall be deducted the actual value of any encumbrance thereon. R.S.O. 1960, c. 388, s. 77. Deduction

79. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may, Rules Committee may make rules

(*a*) make rules for regulating the practice and procedure in the surrogate courts;

(*b*) make rules and regulations regulating and fixing all fees payable to the Crown, the judge, the registrar, and other officers of the court, and fees and expenses payable to witnesses, in respect of proceedings in such courts;

(*c*) prescribe a tariff of fees to be allowed to solicitors and counsel practising in such courts;

(*d*) prescribe forms for use in such courts. R.S.O. 1960, c. 388, s. 78 (1).

CHAPTER 452

The Surveyors Act

INTERPRETATION

1. In this Act, Interpretation

(*a*) "articles" means an agreement respecting training and service between a member of the Association and a student;

(*b*) "Association" means The Association of Ontario Land Surveyors;

(*c*) "board" means the board of examiners of the Association;

(*d*) "by-law" means a by-law of the Association;

(*e*) "council" means the council of the Association;

(*f*) "professional land surveying" means the advising on, the reporting on, the supervising of or the conducting of surveys to establish, locate, define or describe the lines, boundaries or corners of parcels of land or land covered with water;

(*g*) "regulation" means a regulation of the Association;

(*h*) "secretary" means the secretary of the Association;

(*i*) "student" means a student in professional land surveying. 1968-69, c. 125, s. 1.

ASSOCIATION

2.—(1) The Association of Ontario Land Surveyors constituted a body corporate by section 3 of *The Ontario Land Surveyors Act*, being chapter 34 of the Statutes of Ontario, 1892, is continued as a body corporate. Association continued

(2) The members of the Association are the persons whose names are on the roll of the Association. 1968-69, c. 125, s. 2. Membership

3. The objects of the Association are, Objects

(*a*) to regulate the practice of professional land surveying and to govern the profession in accordance with this Act, the regulations and the by-laws;

(*b*) to establish and maintain standards of knowledge and skill among its members; and

(c) to establish and maintain standards of professional ethics among its members,

in order that the public interest may be served and protected. 1968-69, c. 125, s. 3.

Head office

4. The head office of the Association shall be in The Municipality of Metropolitan Toronto or at such other place in Ontario as is designated by the regulations. 1968-69, c. 125. s. 4.

Property

5. The Association may purchase, acquire or take by gift, devise or bequest for the purposes of the Association and the furtherance of its objects, but for no other purposes or objects, any real or personal property, and may sell, mortgage, lease or otherwise dispose of any such property. 1968-69, c. 125, s. 5.

COUNCIL

Council

6.—(1) There shall be a council of the Association, which shall consist of,

(a) the Minister of Lands and Forests or his appointee;

(b) the Surveyor General; and

(c) a president, a vice-president and six elected councillors.

Qualifications of elected members of council

(2) No person shall be elected as a member of the council unless he is a resident of Ontario and a paid-up member of the Association.

Qualifications of electors

(3) No person shall vote in an election of a member of the council unless he is a member of the Association.

Term of office

(4) The president and vice-president shall be elected annually by secret ballot and two of the six elected councillors shall be elected annually for a term of three years by secret ballot.

Lay councillor; legal councillor

(5) In addition to the members of the council mentioned in subsection 1, the Lieutenant Governor in Council may appoint as councillors for a term of three years,

(a) a resident of Ontario who is not a member of the Association; and

(b) a resident of Ontario who is a barrister and solicitor of at least ten years standing at the bar of Ontario.

Vacancies

(6) Where the president, vice-president or a councillor ceases to be a member of the Association, is absent from three consecutive meetings of the council, resigns as a member of the council, becomes incapacitated or dies, the office may be declared vacant by the council, and, if such office should be declared vacant, except in a case of a councillor appointed by the Lieutenant Governor in Council, the council shall fill the vacancy by the

appointment of a person qualified to be elected as a member of the council, and in the case of a vacancy in the office of a councillor appointed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may fill the vacancy by appointment of a person of the same class as the councillor causing the vacancy.

Canadian citizen

(7) No person shall be appointed or elected as a member of the council unless he is a Canadian citizen or other British subject and a person shall cease to be a member of the council if he ceases to be so qualified. 1968-69, c. 125, s. 6.

Secretary

7.—(1) The council shall appoint a secretary from among the members of the Association.

Idem

(2) The secretary may also be appointed as the treasurer.

Roll

(3) In addition to his prescribed duties, the secretary shall maintain and keep for inspection in his office a roll in alphabetical order of the names and the addresses of the members of the Association and shall assign to each member a registration number. 1968-69, c. 125, s. 7.

Evidence of entry on the roll

8. A statement in writing as to the membership or non-membership of any person in the Association purporting to be certified by the secretary is, without proof of office or signature of the secretary, receivable in evidence and constitutes *prima facie* proof of the facts stated therein for all purposes. 1968-69, c. 125, s. 8.

Treasurer

9.—(1) The council may appoint a treasurer and such other officials as it considers appropriate.

Books of account

(2) In addition to his prescribed duties, the treasurer shall enter in the books to be kept for the purpose a true account of all moneys received and paid by him. 1968-69, c. 125, s. 9.

Regulations

10.—(1) The council may make regulations respecting any matter that is outside the scope of the power to pass by-laws specified in section 11, and, without limiting the generality of the foregoing,

(*a*) respecting the government and discipline of members of the Association and students;

(*b*) respecting the examination of applicants for admission as students, fixing the terms of articles and providing for the reduction of such terms by reason of educational standing or experience, and respecting the examination of students and applicants for membership in the Association;

(*c*) prescribing the form of the summons referred to in subsection 10 of section 27;

(*d*) respecting the practice and procedure for hearings held under this Act;

(*e*) defining "professional misconduct" for the purposes of this Act and the regulations;

(*f*) requiring the bonding of members of the Association or any class thereof, prescribing the collateral security for and terms, conditions and form of bonds, and providing for their forfeiture and the disposition of the proceeds;

(*g*) designating a place in Ontario other than in The Municipality of Metropolitan Toronto as the head office of the Association.

Approvals

(2) No regulation is effective,

(*a*) until it has been approved by a majority of the members of the Association present and voting at the next annual meeting or at a general meeting of the Association called for the purpose or until it has been submitted to the members of the Association for approval by means of a mailed secret ballot returnable within thirty days after the mailing thereof and it has been approved by a majority of those voting within the prescribed time; and

(*b*) until it has been approved by the Lieutenant Governor in Council. 1968-69, c. 125, s. 10.

By-laws

11.—(1) The council may pass by-laws relating to the administrative and domestic affairs of the Association, and, without limiting the generality of the foregoing,

(*a*) governing the nomination, election and taking office of members of the council and providing procedures for determining disputes in connection therewith;

(*b*) fixing the remuneration and reimbursement of members of the council and the members of the board and the examiners;

(*c*) providing for the appointment of committees of the council and defining their composition and functions;

(*d*) providing for the calling of meetings of the Association, the council and committees thereof and of the board, fixing the quorums, and governing the procedure for such meetings;

(*e*) respecting the management of the property of the Association;

(*f*) providing for the borrowing of money on the credit of the Association and the charging, mortgaging, hypothecating or pledging of any of the real or personal property of the Association to secure any money bor-

rowed or other debt or any other obligation or liability of the Association;

(*g*) respecting the application of the funds of the Association, and the investment and reinvestment of any of its funds not immediately required in any investments that may from time to time be authorized investments for joint stock insurance companies and cash mutual insurance corporations under *The Insurance Act*; R.S.O. 1970, c. 224

(*h*) providing for the establishment of scholarships, bursaries and prizes;

(*i*) respecting the keeping of records by the Association, the council and the board;

(*j*) providing for services to encourage and assist members of the Association in the development of their professional competence and conduct and in carrying on the practice of professional land surveying;

(*k*) fixing and providing for levying and collecting or remitting annual and other fees, levies and assessments;

(*l*) providing for the appointment and privileges of inactive or honorary members of the Association who shall be deemed not to be members of the Association for the purposes of this Act;

(*m*) prescribing the duties of the secretary, the treasurer and any other officials;

(*n*) prescribing the design of seals of members of the Association and providing for their use;

(*o*) prescribing oaths, providing for their use and designating a depository for them;

(*p*) prescribing forms and providing for their use;

(*q*) respecting all other things that are considered necessary or convenient for the attainment of the objects of the Association and the efficient conduct of its business. 1968-69, c. 125, s. 11 (1), *amended*.

Approval

(2) No by-law is effective until it has been approved by a majority of the members of the Association present and voting at the next annual meeting or at a general meeting of the Association called for the purpose, or until it has been submitted to the members of the Association for approval by means of a mailed secret ballot returnable within thirty days after the mailing thereof and it has been approved by a majority of those voting within the prescribed time.

Interpretation

(3) The by-laws shall be interpreted as though they formed part of this Act. 1968-69, c. 125, s. 11 (2, 3).

Code of ethics

12.—(1) The council shall prepare and publish from time to time a code of ethics containing standards of conduct designed for the protection of the public, which standards members of the Association must subscribe to and follow in the practice of professional land surveying.

Copies

(2) Copies of the code of ethics shall be sent to the members of the Association and shall be available free of charge to members of the public who apply therefor. 1968-69, c. 125, s. 12.

BOARD

Composition of board of examiners

13.—(1) The board shall consist of,

(*a*) a member of the council appointed by the council who shall be the chairman of the board;

(*b*) four members of the Association appointed by the council who shall hold office for a term of three years;

(*c*) two persons appointed by the Lieutenant Governor in Council who shall hold office for a term of three years; and

(*d*) the secretary.

Vacancies

(2) Where a member of the board resigns, dies or becomes unable to act before his term has expired, the authority that appointed him may appoint another person under subsection 1 to complete the unexpired portion of the term.

Acting chairman

(3) Where the chairman of the board is unable to attend a meeting of the board, he shall designate a member of the board to act as chairman for the meeting.

Examiners

(4) The board, with the approval of the council, may appoint one or more competent persons to assist the board in any of the subjects of examination.

Oaths

(5) Each member of the board and any person appointed under subsection 4 shall take and subscribe to the prescribed oath before a person authorized by law to administer oaths.

Meetings

(6) The board shall hold at least one meeting in each year. 1968-69, c. 125, s. 13.

STUDENTS

Qualifications of students

14.—(1) No person shall be a student unless,

(*a*) he holds a certificate of educational standing required for admission to a course in civil engineering in a university in Ontario or evidence of an educational standing that in the opinion of the board is the equivalent thereof;

(*b*) he passes such of the prescribed examinations as are required by the board; and

(*c*) his articles are approved by the board.

(2) An application to be a student shall be made to the secretary and shall be accompanied by evidence satisfactory to the board of the applicant's educational standing, two references as to his good character, and his articles. Application to be student

(3) No articles that have been executed for more than thirty days shall be submitted under subsection 2. Stale articles

(4) When an application under this section is approved by the board, the secretary shall register the applicant as a student and notify the parties to the articles by mail of the registration. 1968-69, c. 125, s. 14. Registration

15.—(1) A member of the Association who is a party to articles may, with the consent of the student and the approval of the council, transfer the articles to another member of the Association. Transfer of articles

(2) Upon cause being shown to the council, the council may transfer articles from one member of the Association to another member. 1968-69, c. 125, s. 15. Idem

MEMBERS

16. Every person who is a member of the Association on the 31st day of December, 1969, shall be entered on the roll under this Act. 1968-69, c. 125, s. 16. Existing members

17.—(1) The board shall upon application admit as a member of the Association a student who, New members

(*a*) is twenty-one or more years of age;

(*b*) resides,

(i) in Ontario,

(ii) outside Ontario and is employed for an indefinite period as a full-time employee of an employer having works or facilities in Ontario and is required by the terms of his employment to practise professional land surveying in respect of such works or facilities or has a place of employment in Ontario and proposes to practise professional land surveying in Ontario on a full-time basis;

(*c*) has faithfully and regularly served his term of articles, serving one-half of the term in actual survey work in the field and has filed with the society at the close of each year of service a record of his training, certified by the member of the Association to whom he was articled;

(*d*) has, not more than one year before the completion of his articles, passed such of the prescribed examinations as are required by the board;

(*e*) has received training and experience in professional land surveying satisfactory to the board;

(*f*) has paid all dues owed by him to the Association;

(*g*) has produced satisfactory evidence of continued good character;

(*h*) has provided himself with a certified standard measure of length; and

(*i*) has taken and subscribed the prescribed oath.

Oaths

(2) The chairman of the board or any other member thereof who is designated by the board for the purpose may administer the oath mentioned in clause *i* of subsection 1. 1968-69, c. 125, s. 17.

Surveyors from other jurisdictions

18. The board shall upon application admit as a member of the Association any person who furnishes satisfactory proof that he,

(*a*) is twenty-one years or more of age;

(*b*) resides in Ontario or resides outside Ontario under the circumstances set out in subclause ii of clause *b* of subsection 1 of section 17;

(*c*) is a member of an association of professional land surveyors in a jurisdiction other than Ontario that has objects similar to those of the Association and requirements for membership no less exacting than those in effect in Ontario;

(*d*) has received training and experience in professional land surveying satisfactory to the board;

(*e*) has produced satisfactory evidence of good character;

(*f*) has paid the prescribed fee;

(*g*) has passed such examinations and served articles for such term as the board determines; and

(*h*) has complied with clauses *h* and *i* of subsection 1 of section 17. 1968-69, c. 125, s. 18.

Hearing where application for membership, etc., refused

19.—(1) Where an applicant for membership has met the academic and experience requirements, or an applicant for readmittance has paid the required dues and has passed any required examinations, and his application is refused, the board or the council, as the case may be, shall, upon the written request of the applicant received by the secretary within fifteen days of the receipt by the applicant of written notice of the refusal, conduct a hearing of the matter.

Conduct of hearing

(2) Section 27 applies *mutatis mutandis* to any hearing conducted under this section except that upon any such hearing the

board or the council, as the case may be, may make findings of fact by such standards of proof as are commonly relied upon by reasonable and prudent men in the conduct of their own affairs. 1968-69, c. 125, s. 19.

Recovery of dues

20.—(1) Any fee, assessment or levy payable under the by-laws shall be deemed to be a debt due to the Association and is recoverable with costs in the name of the Association in any court of competent jurisdiction.

Suspension for non-payment of dues

(2) Where any fee, assessment or levy payable under the by-laws remains unpaid for a period of six months after the date upon which it became due, the secretary shall send a written notice of such default by prepaid mail to the defaulting member at his address shown on the roll and, if payment is not made within one month thereafter, the council may direct the secretary to remove his name from the roll, and thereupon he ceases to be a member, but the council shall upon application readmit him if he,

(*a*) pays the amount of fees, assessments and levies that he would have owed if he had continued to be a member or such part thereof as the council considers just; and

(*b*) passes such examination as the council may direct. 1968-69, c. 125, s. 20.

Resignations

21. A member of the Association may resign from the Association upon giving written notice to the secretary and paying all dues owed by him to the Association. 1968-69, c. 125, s. 21.

Re-admission to membership

22. Where a member of the Association has resigned from the Association, the board may upon application readmit him if he,

(*a*) pays the annual membership fee for the year; and

(*b*) passes such examination as the board may direct. 1968-69, c. 125, s. 22.

Seal

23. A member of the Association shall have a seal of the prescribed design, which shall contain his name and his registration number. 1968-69, c. 125, s. 23.

Certificate of membership

24. The secretary shall issue a certificate of membership in the Association to each member who shall keep it prominently displayed in his place of business. 1968-69, c. 125, s. 24.

Right to practise

25.—(1) Every member of the Association is entitled to engage in the practice of professional land surveying.

Right to use title

(2) Every member of the Association is entitled to use the title "Ontario Land Surveyor" or the abbreviation "O.L.S.". 1968-69, c. 125, s. 25.

PARTNERSHIPS, CORPORATIONS

Practice prohibited by partnerships and corporations

26.—(1) No partnership, association of persons or corporation as such shall be a member or shall, except as authorized by this section, practise professional land surveying.

Certificates of authorization

(2) A partnership, association of persons or corporation that holds a certificate of authorization may, in its own name, practise professional land surveying,

(*a*) if one of its principal or customary functions is to engage in the practice of professional land surveying; and

(*b*) if the practice of professional land surveying is done under the responsibility and supervision of a member of the partnership or the association of persons, a director of the corporation, or a full-time employee of the corporation, who in any case is a member of the Association; and

(*c*) in the case of a corporation, if a majority of each class of its shares is owned by and registered in the name of one or more members of the Association.

Applications for certificates

(3) A partnership, association of persons or corporation that desires a certificate of authorization shall submit to the secretary an application in the prescribed form containing,

(*a*) the names and addresses of all its partners, members, officers or directors, as the case may be;

(*b*) the names of all its partners, its members in the case of associations of persons, its directors or full-time employees in the case of corporations, who are the members of the Association who will be in charge of professional land surveying on its behalf;

(*c*) from among the names specified under clause *b* the name or names of its official representative or representatives whose duty it is to ensure that this Act, the regulations and the by-laws are complied with by the partnership, the association of persons or the corporation, as the case may be,

and shall, whenever there is a change in the particulars given in its application, give notice of the change to the secretary within thirty days after the effective date of the change.

Issue of certificates

(4) If subsection 3 is complied with, the secretary shall issue to the applicant a certificate of authorization.

Ipso facto revocation of certificate

(5) Where the holder of a certificate of authorization ceases to have any official representative, the certificate is *ipso facto* revoked, and the partnership, association of persons or corporation shall not practice professional land surveying until a new certificate of authorization is issued.

(6) Where the council finds that the holder of a certificate of authorization has failed to observe any of the provisions of this section or has been guilty of conduct that would, in the case of a member of the Association, have been professional misconduct, the council may reprimand the holder or suspend or revoke the certificate of authorization. Reprimand of holder of certificate

(7) Sections 19, 27 and 28 apply *mutatis mutandis* to the refusal to issue a certificate of authorization and to the revocation or suspension of a certificate of authorization. 1968-69, c. 125, s. 26. Application of ss. 19, 27, 28

DISCIPLINE

27.—(1) Subject to subsection 2, where the council finds that a person who is a member of the Association is guilty of professional misconduct or has obtained admission as a member by reason of misrepresentation, the council may by order do one or more of the following: Powers of council to discipline members

1. Reprimand such person and, if considered proper, direct that the fact of the reprimand be recorded on the roll.
2. Suspend the membership of such person for such time as the council considers proper and direct that the reinstatement of such membership on the termination of such suspension be subject to such conditions, if any, as the council considers proper.
3. Direct that the imposition of any penalty be suspended or postponed for such period and upon such terms as the council considers proper and that at the end of such period and upon the compliance with such terms any penalty be remitted.
4. Direct that the membership of such person be cancelled and that the name of such person be removed from the roll.
5. Direct that the decision of the council be published in detail or in summary in such manner or medium as the council considers appropriate in any particular case.
6. Direct that, where it appears that the proceedings were unwarranted, such costs as to the council seem just be paid by the Association to the member whose conduct was the subject of such proceedings.

(2) The council shall not take any action under subsection 1 unless, Complaint and hearing

(*a*) a complaint under oath has been filed with the secretary and a copy thereof has been served on the person whose conduct is being investigated;

(*b*) the person whose conduct is being investigated has been served with a notice of the time and place of the hearing; and

(*c*) the council has heard evidence of or on behalf of the complainant and, if the person whose conduct is being investigated appears at the hearing and so requests, has heard his evidence or evidence on his behalf and has reached the decision that he is guilty.

Power to take sworn evidence

(3) Any person presiding at a hearing may administer oaths to witnesses and require them to give evidence under oath.

Failure to appear

(4) If the person whose conduct is being investigated fails to appear in answer to the notice at the time and place appointed, the hearing may be conducted in his absence.

Disciplinary hearings to be held *in camera*

(5) Hearings shall be held *in camera*, but if the person whose conduct is being investigated requests otherwise by a notice in writing delivered to the secretary before the day fixed for the hearing, the council may conduct the hearing in public or otherwise as it thinks proper.

Adjournments

(6) The council may adjourn any hearing at any time and from time to time.

Attendance of persons being investigated

(7) A person whose conduct is being investigated, if present in person at the hearing, has the right to be represented by counsel or agent, to adduce evidence and to make submissions and any such person may be compelled to attend and give evidence in the manner provided in subsection 10.

Hearing of evidence

R.S.O. 1970, c. 151

(8) The oral evidence submitted at a hearing shall be taken down in writing or by any other method authorized by *The Evidence Act*.

Rules of evidence

(9) The rules of evidence applicable in civil proceedings are applicable at hearings, but at a hearing members of the council may take notice of generally recognized technical or scientific facts or opinions within the specialized knowledge of members of the council if the person whose conduct is being investigated has been informed before or during the hearing of any such matters noticed and he has been given an opportunity to contest the material so noticed.

Summons to witness

(10) The president, the vice-president or the secretary may, and the secretary upon application of a person whose conduct is being investigated shall, issue a summons in the prescribed form commanding the attendance and examination of any person as a witness, and the production of any document the production of which could be compelled at the trial of an action, to appear before the council at the time and place mentioned in the summons and stating that failure to obey the summons will

render the person liable to imprisonment on an application to the Supreme Court, but the person whose attendance is required is entitled to the like conduct money and payment for expenses and loss of time as upon attendance as a witness at a trial in the Supreme Court.

Failure of witness to appear, etc.

(11) If any person,

(*a*) on being duly summoned to appear as a witness makes default in attending; or

(*b*) being in attendance as a witness refuses to take an oath legally required to be taken, or to produce any document in his power or control legally required to be produced by him, or to answer any question which he is legally required to answer; or

(*c*) does any other thing which would, if the council had been a court of law having power to commit for contempt, have been contempt of that court,

the person presiding at the hearing may certify the offence of that person under his hand to the Supreme Court and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statements that may be offered in defence, punish or take steps for the punishment of that person in the like manner as if he had been guilty of contempt of court.

Examination and cross-examination

(12) At a hearing the complainant and the person whose conduct is being investigated have the right to examine the witnesses called by them respectively, and to cross-examine the witnesses opposed in interest.

Decisions

(13) The decision taken after a hearing shall be in writing and shall contain or be accompanied by the reasons for the decision in which are set out the findings of fact and the conclusions of law, if any, based thereon, and a copy of the decision and the reasons therefor, together with a notice to the person whose conduct is being investigated of his right of appeal, shall be served upon him within thirty days after the date of the decision. 1968-69, c. 125, s. 27 (1-13).

Record

(14) A record shall be compiled for every hearing consisting of the complaint and the notice referred to in subsection 2, any intermediate rulings or orders made in the course of the proceedings, a transcript of the oral evidence, if a transcript has been prepared, such documentary evidence and things as were received in evidence and the decision and the reasons therefor, and documents and things received in evidence may be released to the persons tendering them when all appeals have been finally disposed of or the right to appeal has terminated. 1968-69, c. 125, s. 27 (14), *amended*.

Service of documents

(15) Any document required to be served under this Act upon a person whose conduct is being investigated shall be served personally upon him, but where it appears that service cannot be effected personally, the document may be served by mailing a copy thereof in a registered letter addressed to him at his residence or office address as shown by the records of the Association, and service shall be effected not less than ten days before the date of the hearing or the event or thing required to be done, as the case may be, and proof by affidavit of the service is sufficient.

Re-instatement after suspension

(16) Where a member has been suspended from practising under this section, he may, upon payment of all dues owed by him to the Association, apply to the council to be reinstated as a member and the council may terminate the suspension of such member upon such terms as it considers proper.

Re-admission after expulsion

(17) A person whose membership has been cancelled under this section may apply to the council for membership and the council shall, subject to subsection 18, hear the application and make such order as it considers proper and may include as a term of any such order such conditions as the council considers proper to be fulfilled before the applicant is admitted to membership or to be observed by such member thereafter.

Idem

(18) Except with the consent of the council, no application under subsection 17 shall be heard before the expiry of two years from the date of the cancellation of membership or the date of the final disposition of any appeal.

Idem

(19) Upon a hearing for admission to membership under subsection 17, the council shall follow, in so far as is practicable, the procedure provided for in the case of a complaint under this section, and a former member has the same right of appeal from an order made by the council under subsection 17 as is provided in section 28.

Committee of council

(20) The council may appoint a committee to act for and on its behalf composed of not fewer than five members of the council, one of whom shall be the president or the vice-president, and may delegate to the committee all or any of its powers and duties under this section upon such terms and conditions, if any, as the council considers proper, and a decision or order of the committee is the decision or order of the council.

Practice pending appeal

(21) Except in the case of professional misconduct constituting incompetence on the part of the person whose conduct was investigated, the suspension or cancellation of the membership of a person whose conduct was investigated under this section does not become effective until any appeal has been finally disposed of or the right of appeal has terminated. 1968-69, c. 125, s. 27 (15-21).

APPEAL

Appeal

28.—(1) Any person who has been refused admittance or readmission to membership in the Association or who has been reprimanded or whose membership is suspended or cancelled may appeal from the order of refusal, reprimand, suspension or cancellation to the Court of Appeal within fifteen days from the day upon which he is served with the order of refusal, reprimand, suspension or cancellation.

Certified copies of papers

(2) Upon the request of any person desiring to appeal and upon payment of the cost thereof, the secretary shall furnish such person with a certified copy of all proceedings, evidence, reports, orders and papers received as evidence by the board or council in dealing with and disposing of the matter complained of.

Failure to pay costs

(3) If the appellant fails to pay the cost of the certified copy and the cost of such additional copies of the evidence as may be reasonably required for the purposes of the appeal within fifteen days after written demand from the secretary, the appeal shall be deemed to be abandoned.

Procedure and record

(4) An appeal under this section shall be by motion, notice of which shall be served upon the secretary, and the record shall consist of a copy, certified by the secretary, of the proceedings before the board or council, the evidence taken, the report of the board or council and all decisions, findings and orders of the board or council in the matter.

Practice

(5) Except as otherwise provided, appeals under this section shall be in accordance with the practice in appeals from the decision or order of a judge of the Supreme Court.

Orders

(6) Upon the hearing of an appeal under this section, the Court of Appeal may make such order as the court considers proper or may refer the matter or any part thereof back to the board or council with such directions as the court considers proper.

Costs

(7) The Court of Appeal may make such order as to the costs of the appeal as the court considers proper. 1968-69, c. 125, s. 28.

OFFENCES

Offences, persons

29.—(1) Every person, other than a member of the Association, who,

(*a*) uses the title "Ontario Land Surveyor" or uses any addition to or abbreviation of such title, or uses the designation "surveyor" or any words, name or designation that will lead to the belief that he is a member of the Association;

(*b*) advertises, holds himself out, or conducts himself in any way or by any means as a member of the Association; or

(c) engages in the practice of professional land surveying,

is guilty of an offence.

Idem

(2) Every person, who,

(a) wilfully procures or attempts to procure admission to the Association for himself or for another person by making, producing or causing to be made or produced any fraudulent representation or declaration either oral or written;

(b) wilfully procures or attempts to procure a certificate of authorization for a partnership, association of persons or corporation by making, producing or causing to be made or produced any fraudulent representation or declaration either oral or written; or

(c) knowingly makes any false statement in any application, declaration or other document under this Act or the regulations,

is guilty of an offence.

Offences, partnerships, associations and corporations

(3) Where a partnership, association of persons or corporation that has no subsisting certificate of authorization,

(a) practises professional land surveying;

(b) uses any name, title, description or designation that will lead to the belief that it is entitled to practise professional land surveying; or

(c) advertises, holds itself out or conducts itself in any way or in such manner as to lead to the belief that it is entitled to practise professional land surveying,

every member of the partnership, every member of the association of persons, or the corporation and every director thereof, is guilty of an offence.

Idem

(4) Where a partnership, association of persons or corporation that has a subsisting certificate of authorization practises professional land surveying in contravention of this Act, every member of the partnership, every member of the association of persons or the corporation and every director thereof, is guilty of an offence.

Penalties

(5) Every person, member of a partnership, member of an association of persons, and every corporation and director thereof, who is guilty of an offence under this section is, on summary conviction, liable to a fine of not more than $1,000 or to imprisonment for a term of not more than six months, or to both.

Limitation of proceedings

(6) No proceedings shall be commenced for a contravention of any of the provisions of this section after two years from the date of the commission of such contravention. 1968-69, c. 125, s. 29.

30. No action or other proceedings for damages shall be instituted against the council or the board, or any member or official of the council or the board or any person appointed by the council or the board for any act done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of any such duty or power. 1968-69, c. 125, s. 30. Protection from actions

CHAPTER 453

The Surveys Act

1. In this Act, Interpretation

(*a*) "ascertainable point" means a point found or re-established in its original position on a line or boundary established during the original survey or on a line or boundary established during the survey of a plan of subdivision registered under *The Land Titles Act* or *The Registry Act*; R.S.O. 1970, cc. 234, 409

(*b*) "broken concession" means a concession any boundary of which is broken in whole or in part by a lake or river;

(*c*) "broken lot" means an irregular lot or a regular lot whose area is diminished or increased by a natural or artificial feature shown on the original plan;

(*d*) "competent authority" means any governmental authority in existence before or after the creation of the Province of Ontario under whose instructions Crown land in Ontario has been or may be surveyed, or the owner of a tract of land that was not included in a township at the time the tract was granted by the Crown under whose instructions the first survey of the boundaries or interior of the tract has been made;

(*e*) "concession" means a tier of township lots;

(*f*) "Department" means the Department of Lands and Forests;

(*g*) "irregular lot" means a township lot whose boundaries according to the original plan do not conform within one degree to the bearings shown for the corresponding boundaries of the majority of the lots in the tier in which the lot occurs;

(*h*) "land" includes land covered with water;

(*i*) "last ascertainable side line" means a line in a broken concession established from the front of the concession on the course of a side line of a lot from the lot corner nearest the end of the part of the concession so broken;

(*j*) "lost corner" means a corner established during an original survey or during a survey of a plan of subdivision registered under *The Land Titles Act* or *The Registry Act* where the original post no longer exists or never existed and which cannot be re-established from the

field notes of either of such surveys or by evidence under oath;

(k) "Minister" means the Minister of Lands and Forests;

(l) "obliterated boundary" means a boundary established during an original survey or during a survey of a plan of subdivision registered under *The Land Titles Act* or *The Registry Act* where the original posts or blazed trees no longer exist and which cannot be re-established from the field notes of either of such surveys or by evidence under oath;

R.S.O. 1970, cc. 234, 409

(m) "original plan" means a plan certified by the Surveyor General as being the original plan of an original survey;

(n) "original post" means any object that defines a point and that was placed, planted or marked during the original survey or during a survey of a plan of subdivision registered under *The Land Titles Act* or *The Registry Act*;

(o) "original survey" means a survey made under competent authority;

(p) "proof line" means a line surveyed across one or more concessions in the original survey of a single front township or of a double front township to govern the course of a side line of a lot;

(q) "regular lot" means a township lot whose boundaries according to the original plan conform within one degree to the bearings shown for the corresponding boundaries of the majority of the lots in the tier in which the lot occurs;

(r) "surveyor" means an Ontario land surveyor registered under *The Surveyors Act*;

R.S.O. 1970, c. 452

(s) "unbroken lot" means a regular lot whose area is not diminished or increased by a natural or artificial feature shown on the original plan;

(t) "undisputed corner" means a corner of a parcel of land at which the original post exists, or a corner established under this Act or any predecessor of this Act. R.S.O. 1960, c. 390, s. 1.

PART I

GENERAL

Validity of surveys

2. No survey of land for the purpose of defining, locating or describing any line, boundary or corner of a parcel of land is valid unless made by a surveyor or under the personal supervision of a surveyor. R.S.O. 1960, c. 390, s. 2.

3. All lines, boundaries and corners established under the authority of any Act heretofore or hereafter in force remain valid and all other things done under any such authority and in conformity therewith remain valid notwithstanding the repeal of such authority. R.S.O. 1960, c. 390, s. 3. Lines, etc., remain valid

4.—(1) Every surveyor shall make and preserve exact and regular field notes of all his surveys and shall keep a proper record and index of all such field notes and shall exhibit or give copies of the same to any surveyor for a reasonable charge. Duty to keep field notes, etc.

(2) Where a surveyor has died and no arrangements have been made within six months of his death to place his field notes, records and indices in the custody of a surveyor in active practice, the secretary-treasurer of the Association of Ontario Land Surveyors shall cause such field notes, records and indices to be delivered by the personal representative of the deceased surveyor to the Minister who shall hold them for the benefit of the estate for a period not exceeding five years, and upon the expiry of that period such field notes, records and indices become the property of the Crown and may be disposed of by the Minister in any manner he considers proper. Disposition of notes of deceased surveyor

(3) So long as such field notes, records and indices are in the possession of the Minister, he shall exhibit or give copies of the same to any person for a reasonable charge. R.S.O. 1960, c. 390, s. 4. To be deemed public documents

5. A surveyor may at any time require a chainman or any other person in his employ to take an oath in writing to act justly and exactly according to the best of his judgment and ability and to render a true account of his work to the surveyor, which oath the surveyor is hereby authorized to administer. R.S.O. 1960, c. 390, s. 5. Chainman's oath

6.—(1) A surveyor or a person in his employ while making a survey may, Right to enter land, buildings

(*a*) at any time enter and pass over the land of any person; or

(*b*) at any time suitable to the occupant of a building enter the building,

and do any act thereon or therein for any purpose of the survey, but the surveyor is liable for any damage occasioned thereby.

(2) Every person who interferes with or obstructs a surveyor or a person in his employ in the exercise of any of the powers conferred by subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1960, c. 390, s. 6. Offence for obstructing

Examination under oath

7.—(1) A surveyor may examine under oath any person concerning a line, boundary, corner or post to assist him in ascertaining its true position.

Record of evidence

(2) The surveyor may cause the evidence so taken to be put in writing in the form of a statement under oath.

Subpoena

(3) Where the surveyor has reason to believe that a person has information concerning a line, boundary, corner or post that may assist him in ascertaining its true position or has a writing, plan or document concerning a line, boundary, corner or post and such person has refused to give the information or to produce the writing, plan or document to the surveyor while being examined under subsection 1, a judge of a county or district court, upon application of the surveyor, may order a subpoena to issue out of the court of which he is a judge commanding such person to appear before the surveyor at the time and place specified in the subpoena and to bring with him any writing, plan or document specified therein.

Service of subpoena

(4) The subpoena shall be served personally on the person named in it and he shall be tendered his reasonable expenses.

Penalty for failure to obey subpoena

(5) Every person who is served with a subpoena under this section and who has been tendered his reasonable expenses and who fails to appear before the surveyor in accordance with the subpoena or who fails to produce any writing, plan or document specified in the subpoena or to give such information as he has respecting the line, boundary, corner or post in question is guilty of contempt of the court out of which the subpoena issued.

Power to administer oaths

(6) A surveyor may administer oaths for any of the purposes of this section. R.S.O. 1960, c. 390, s. 7.

True and unalterable base lines and meridian lines

8. Every base line and meridian line surveyed under the instructions of the Minister before the 28th day of March, 1956, that are shown on the original plan thereof shall be deemed to have been made by competent authority and are true and unalterable and shall be deemed to be defined by the original posts or blazed trees in the survey thereof. R.S.O. 1960, c. 390, s. 8.

True and unalterable lines, etc.

9. Notwithstanding section 58, every line, boundary and corner established by an original survey and shown on the original plan thereof is a true and unalterable line, boundary or corner, as the case may be, and shall be deemed to be defined by the original posts or blazed trees in the original survey thereof, whether or not the actual measurements between the original posts are the same as shown on the original plan and field notes or mentioned or expressed in any grant or other instrument, and every road allowance, highway, street, lane, walk and common shown on the original plan shall, unless otherwise shown thereon, be deemed to

be a public road, highway, street, lane, walk and common, respectively. R.S.O. 1960, c. 390, s. 9.

Methods governing plans, other than township subdivision plans

10. A surveyor in establishing or re-establishing a line, boundary or corner surveyed under competent authority and shown on the original plan thereof, other than a township subdivision plan, is governed by sections 54 and 55. R.S.O. 1960, c. 390, s. 10.

Where land covered by water not included

11.—(1) Where a lake or river is shown on an original plan of Crown lands and a parcel of land shown thereon is given an acreage covering the land area only, such parcel of land does not include any land covered by the water of the lake or river.

Certain rights not affected

(2) Subsection 1 does not affect the rights of any person where such rights were determined by a court before the 8th day of July, 1913. R.S.O. 1960, c. 390, s. 11.

Lands in township concessions included in same grant

12. Where the Crown has conveyed a parcel of land composed of two or more township lots or parts of lots in concessions adjoining each other by an instrument that contains a metes and bounds description of the parcel prepared from an original plan, the side lines or limits of such lots or parts of lots surveyed in accordance with this Act or any predecessor of this Act constitute the side lines or limits of the parcel. R.S.O. 1960, c. 390, s. 12.

PART II

FRONT AND REAR TOWNSHIPS

Interpretation

13.—(1) In this Part, "front and rear township" means a township where the usual practice in the original survey was to survey the township boundaries, the base lines, if any, and the side lines of the lots and to establish the corners of the lots.

Re-establishment of lost corners, etc.

(2) A surveyor in re-establishing a lost corner, an obliterated boundary or an obliterated side line of a lot in a front and rear township shall obtain the best evidence available respecting the corner, boundary or side line, but if the corner, boundary or side line cannot be re-established in its original position from such evidence, he shall proceed as follows:

1. If the lost corner is a corner of the township, he shall report the circumstances to the Minister, who shall instruct him how to proceed.
2. If a part of the township boundary or a base line is obliterated, he shall re-establish the township boundary or the base line by joining the nearest ascertainable points thereof as intended in the original survey.
3. If a side line or part thereof is obliterated, he shall re-establish the side line by joining the nearest ascer-

tainable points thereof as intended in the original survey, and if an end of a side line is obliterated, he shall re-establish such end by measuring along the township boundary or base line in the manner in which such measurement was made as shown on the original plan and field notes.

4. If the lost corner is a corner of a lot, he shall determine the distance along the side line between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey. R.S.O. 1960, c. 390, s. 13.

Unsurveyed boundaries

14. A boundary of a lot shown on the original plan of a front and rear township that was not surveyed in the original survey is the straight line between the two corners of such lot. R.S.O. 1960, c. 390, s. 14.

Fronts of concessions

15. The front of a concession in a front and rear township is the boundary of the concession that is nearest the boundary of the township from which the concessions therein are numbered or lettered, but in the case of a township in which the concessions are not numbered or lettered, the front of a concession is the boundary of the concession that is nearest the boundary of the township or the base line along which the width of the first lot was measured. R.S.O. 1960, c. 390, s. 15.

Aliquot parts of lots

16.—(1) The aliquot part of a lot in a front and rear township is the aliquot part of the area of the lot, whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Boundaries of aliquot parts

(2) The boundaries of an aliquot part of a lot in a front and rear township, of which lot no aliquot part was surveyed before the 1st day of January, 1959, shall be surveyed on the astronomic course intended in the original survey for the side lines of such lot or on the astronomic course intended for the base line of the township, as the case may be. R.S.O. 1960, c. 390, s. 16.

PART III

SINGLE FRONT TOWNSHIPS

Interpretation

17.—(1) In this Part, "single front township" means a township where the usual practice in the original survey was to survey the township boundaries, the proof lines and the base lines, if any, and the concession lines for the fronts of the concessions and to establish the lot corners on the front of each concession.

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a single front township shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows: Re-establishment of lost corners, etc.

1. If the lost corner is a corner of the township, he shall report the circumstances to the Minister who shall instruct him how to proceed.

2. If the lost corner of a lot on a township boundary or on the front of a concession, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.

3. If a part of a township boundary, base line or concession line is obliterated, he shall re-establish the same by joining the nearest ascertainable points thereof as intended in the original survey.

4. If a side line of a lot was surveyed as a proof line and part of the side line is obliterated, he shall re-establish the side line by joining the nearest ascertainable points thereof as intended in the original survey.

5. If the front line of a concession is obliterated beyond the last ascertainable point in a concession broken by a lake or river at its end, he shall re-establish such concession line on the same astronomic course as shown on the original plan and field notes from the last ascertainable point on the concession line.

6. If the lost corner is a corner of a lot that is beyond the last undisputed corner on the front of a concession broken by a lake or river at its end, he shall re-establish the corner by measuring along the front of the concession the distance shown on the original plan and field notes from the last undisputed corner. R.S.O. 1960, c. 390, s. 17.

18. The front of a concession in a single front township is the boundary of the concession that is nearest the boundary of the township from which the concessions therein are numbered or lettered. R.S.O. 1960, c. 390, s. 18. Fronts of concessions

19. Where in a single front township the whole of the front boundary of a concession was not surveyed in the original survey or is obliterated, a surveyor in establishing or re-establishing such front boundary in whole or in part shall establish or re-establish Concession line not surveyed or obliterated

such boundary to give the lots in each of the adjacent concessions a depth proportionate to that intended in the original survey. R.S.O. 1960, c. 390, s. 19.

Concession not surveyed in original township, side lines established

20. Where the front of a concession in a single front township was not surveyed in the original survey, the side lines of the lots in such concession shall be surveyed from the corners of the lots on the front of the concession to the rear thereof to the depth of the concession, that is, to the proportionate depth intended in the original survey as shown on the original plan and field notes having due regard for any road allowance made in the original survey, and the straight line joining the ends of the lot lines so surveyed is the boundary of such concession. R.S.O. 1960, c. 390, s. 20.

Establishment of side lines

21. A surveyor in establishing in a concession in a single front township a side line of a lot that was not surveyed in the original survey shall proceed as follows:

1. If intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line of the concession at the end from which the lots are numbered, or, if such boundary line was not surveyed in the original survey because it was wholly broken by a lake or river and if intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line at the other end of the concession, but where a proof line was surveyed in the original survey, he shall establish the side line on the side of the proof line that is farthest from the end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.

2. If not intended to be established on the same astronomic course as the boundary line at either end of the concession and if intended in the original survey, he shall establish the side line at the angle with the boundary line at the end of the concession from which the lots are numbered as shown on the original plan and field notes, or, if such end was not surveyed in the original survey because it was wholly broken by a lake or river and if intended in the original survey, he shall establish the side line at the angle with the boundary line at the other end of the concession as shown on the original plan and field notes, but where a proof line was surveyed in the original survey, he shall establish the side line on the side of the proof line that is farthest from the end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.

3. If the end boundaries of a concession were not surveyed in the original survey because they were wholly broken

by a lake or river, he shall establish the side line at such angle with the front boundary of the concession as shown on the original plan and field notes, or, if parts of the front boundary of the concession have been surveyed on different courses, he shall establish the side line at such angle with the course of each of the parts as shown on the original plan and field notes, or, if such angle is not shown on the original plan and field notes, he shall establish the side line at such angle with the front boundary of the concession as the Minister may direct.

4. If the end boundaries of the concession were not surveyed in the original survey because they were wholly broken by a lake or river and a proof line was surveyed in the original survey, he shall establish the side line on the same astronomic course as the proof line.

5. If the end boundaries of the concession were not surveyed in the original survey because they were wholly broken by a lake or river and two or more proof lines were surveyed in the original survey, he shall establish the side lines that are between the township boundary from which the lots are numbered and the second proof line from such boundary on the same astronomic course as the first proof line from such boundary, and he shall establish the side lines that are between the second proof line and the third proof line from such boundary on the same astronomic course as the second proof line, and he shall establish the side lines that are between the third proof line and the fourth proof line from such boundary on the same astronomic course as the third proof line, and so on through the concession.

6. If the concession is wholly broken in front by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the lots in the broken front concession, he shall establish the side lines in such broken front concession in accordance with this section from the corners of the lots on the front boundary of the concession in the rear thereof to the lake or river.

7. If the concession is partly broken in front at either end by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the lots broken thereby, he shall establish the side lines of such broken lots in accordance with this section from the points on the rear boundary of the concession determined by dividing proportionately as intended in the original survey the distance between the end of the concession and the intersection of the last ascertainable side line with the

rear of the concession as shown on the original plan, but where such end of the concession is wholly bounded by a lake or river and no measurement was made in the original survey along the rear of the concession to the lake or river, he shall determine the points from which the side lines of such lots shall be drawn by measuring along the rear boundary the widths of the lots as intended in the original survey from the intersection of the last ascertainable side line.

8. If the concession is partly broken in front by a lake or river and the lake or river does not extend to either end of the concession and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the lots broken thereby, he shall establish the side lines of such broken lots in accordance with this section from points on the rear boundary of the concession determined by dividing proportionately as intended in the original survey the distance between the intersections of the last ascertainable side lines on both sides of the lake or river with the rear boundary of the concession. R.S.O. 1960, c. 390, s. 21.

Aliquot parts described

22.—(1) The aliquot part of a lot in a single front township is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant to other instrument.

Boundaries

(2) The boundaries of an aliquot part of a lot in a single front township of which lot no aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the lot, as the case may be, but where in such latter case the lot is broken on its front at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed parallel to the straight line joining the rear corners of the lot, and, where the rear boundary of the lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course of the front of the concession as shown on the original plan and field notes, or, if such course was not so shown, they shall be surveyed on the astronomic course intended for the front of the concession. R.S.O. 1960, c. 390, s. 22.

Governing course for side lines

23.—(1) A survey in establishing the course of a township boundary line or a proof line in a single front township for the purpose of surveying a side line of a lot shall determine the course

of the straight line joining the front and rear ends of the boundary line or proof line in each concession.

(2) A surveyor in establishing the course of the front of a concession in a single front township for the purpose of measuring an angle with such front to establish a side line of a lot shall determine the course of the straight line joining the ends of such front, but where the front of the concession was surveyed on more than one course in the original survey, he shall determine the course of the straight line joining the ends of each course of such front. R.S.O. 1960, c. 390, s. 23. Idem

PART IV

DOUBLE FRONT TOWNSHIPS

24.—(1) In this Part, "double front township" means a township where the usual practice in the original survey was to survey the township boundaries, the proof lines and base lines, if any, and the concession lines forming the front boundaries of the half lots and to establish the front corners of the half lots. Interpretation

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a double front township shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows: Re-establishment of lost corners, etc.

1. If the lost corner is a corner of the township, he shall report the circumstances to the Minister who shall instruct him how to proceed.

2. If the lost corner is a corner of a lot on a township boundary or on a concession line, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey, but where there is an undisputed corner on the other side of the road allowance opposite the lost corner, he shall re-establish the lost corner from the position of the undisputed corner, and where the corner on the opposite side of the road allowance is also lost but the position of the original post on the centre line of the road allowance can be determined, such position shall be used in re-establishing the lost corner.

3. If a part of a township boundary, base line or concession line is obliterated, he shall re-establish the same by

joining the nearest ascertainable points thereof as intended in the original survey.

4. If a side line of a lot was surveyed as a proof line and part of the line is obliterated, he shall re-establish the side line by joining the nearest ascertainable points thereof as intended in the original survey.

5. If the concession line forming the front boundary of the half lots in a concession is obliterated beyond the last ascertainable point in a concession broken by a lake or river at its end, he shall re-establish such concession line on the same astronomic course as shown on the original plan and field notes from the last ascertainable point on the concession line.

6. If the lost corner is a corner of a lot that is beyond the last undisputed corner on a concession line forming the front boundary of the half lots in a concession broken by a lake or river at its end, he shall re-establish the corner by measuring along such concession line the distance shown on the original plan and field notes from the last undisputed corner. R.S.O. 1960, c. 390, s. 24.

Front boundary of half lots

25. The front boundary of a half lot in a double front township is the boundary of the half lot that abuts the road allowance between two concessions made in the original survey, or, where a concession is broken by a lake or river, the front boundary of a half lot is the original shore of the lake or river opposite the prolongation of such road allowance across the lake or river. R.S.O. 1960, c. 390, s. 25.

Concession line not run or obliterated

26. Where in a double front township the whole of the concession line forming the front boundary of the half lots was not surveyed in the original survey or is obliterated, a surveyor in establishing or re-establishing such concession line in whole or in part shall establish or re-establish such concession line to give the lots in each of the adjacent concessions a depth proportionate to that intended in the original survey. R.S.O. 1960, c. 390, s. 26.

Establishment of rear boundaries

27. A surveyor in establishing the rear boundaries of half lots in a concession in a double front township shall proceed as follows without reference to the description contained in any grant or other instrument:

1. If the concession is unbroken on both fronts by a lake or river, he shall join by straight lines the midway points of the side lines of the lots and their production through the concession.

2. If the concession is broken on either or both fronts by a lake or river but the fronts of the concession are not

wholly broken at either or both ends, he shall join by a straight line the midway points of the last ascertainable side line and its production through the concession at each end of the broken front.

3. If the concession is wholly broken on both fronts at either end of the concession by a lake or river but not broken on both fronts throughout the entire concession, he shall establish the midway point of the last ascertainable side line and its production through the concession and from this point he shall establish the rear boundary of the half lots on both fronts of the concession on the astronomic course intended in the original survey.

4. If the concession is broken at its end on one of the fronts of the half lots by a lake or river but not so broken on the rear boundaries of such half lots, he shall establish the midway point of the last ascertainable side line of the half lots so broken and its production through the concession and from such midway point join a straight line to a point on the township boundary determined by measuring along that boundary the distance intended in the original survey from the unbroken front of the concession. R.S.O. 1960, c. 390, s. 27.

Establishment of side lines

28. A surveyor in establishing in a concession in a double front township a side line of a half lot that was not surveyed in the original survey shall proceed as follows:

1. If intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line of the concession at the end from which the lots are numbered, or, if such boundary line was not surveyed in the original survey because it was wholly broken by a lake or river and if intended in the original survey, he shall establish the side line on the same astronomic course as the boundary line at the other end of the concession, but where a proof line was surveyed in the original survey, he shall establish the side line on the side of the proof line that is farthest from the end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.

2. If not intended to be established on the same astronomic course as the boundary line at either end of the concession and if intended in the original survey, he shall establish the side line at the angle with the boundary line at that end of the concession from which the lots are numbered as shown on the original plan and field notes, or, if such end was not surveyed in the original survey because it was wholly broken by a lake or river and if

intended in the original survey, he shall establish the side line at the angle with the boundary line at the other end of the concession as shown on the original plan and field notes, but where a proof line was surveyed in the original survey, he shall establish the side line on the side of the proof line that is farthest from the end of the concession that is intended to govern the course of the side line on the same astronomic course as the proof line.

3. If the end boundaries of a concession were not surveyed in the original survey because they were wholly broken by a lake or river, he shall establish the side line at such angle with the concession line as shown on the original plan and field notes, or, if parts of the concession line have been surveyed on different courses, he shall establish the side line at such angle with the course of each of the parts as shown on the original plan and field notes, or, if such angle is not shown on the original plan and field notes, he shall establish the side line at such angle with the concession line as the Minister may direct.

4. If the end boundaries of the concession were not surveyed in the original survey because they were wholly broken by a lake or river and a proof line was surveyed in the original survey, he shall establish the side line on the same astronomic course as the proof line.

5. If the end boundaries of the concession were not surveyed in the original survey because they were wholly broken by a lake or river and two or more proof lines were surveyed in the original survey, he shall establish the side lines that are between the township boundary from which the lots are numbered and the second proof line from such boundary on the same astronomic course as the first proof line from such boundary, and he shall establish the side lines that are between the second proof line and the third proof line from such boundary on the same astronomic course as the second proof line, and he shall establish the side lines that are between the third proof line and the fourth proof line from such boundary on the same astronomic course as the third proof line, and so on through the concession.

6. If the concession is wholly broken on one front by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the half lots, he shall establish the side lines of the broken half lots according to this section from the rear corners of the half lots on the unbroken front of the concession.

7. If the concession is wholly broken on both fronts at either end by a lake or river and no posts were planted in

the original survey on the banks of the lake or river to regulate the widths in front of the half lots broken thereby, he shall establish the side lines of such broken half lots according to this section from points on the rear boundaries of the half lots determined by measuring along the rear boundaries of the half lots the widths of the half lots as intended in the original survey from the intersections of the last ascertainable side lines of the half lots with the rear boundaries of the half lots.

8. If the concession is partly broken on one front by a lake or river and the lake or river does not extend to either end of the concession and no posts were planted in the original survey on the banks of the lake or river to regulate the width in front of the half lots broken thereby, he shall establish the side lines of such broken half lots according to this section from points on the rear boundaries of the half lots determined by dividing proportionately as intended in the original survey the distance between the intersections of the last ascertainable side lines of the half lots on both sides of the lake or river with the rear boundaries of the half lots.

9. If the concession is partly broken on either front at either end but not broken at the end of the rear boundary of the half lots by a lake or river and no posts were planted in the original survey on the banks of such lake or river to regulate the widths in front of the half lots broken thereby, he shall establish the sides lines of such broken half lots according to this section from points on the rear boundary of the half lots in the unbroken front determined by dividing proportionately as intended in the original survey the distance between the end of the concession and the last ascertainable side line of the half lot on the front of the concession so broken.

10. If the concession is partly broken on either front at either end by a lake or river and also broken at the end of the rear boundary of the half lots and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the half lots broken thereby, he shall establish the side lines of the broken half lots according to this section from points on the rear boundary of the half lots in the unbroken front determined by measuring along such rear boundary the widths of the broken half lots as intended in the original survey from the intersection of the last ascertainable side line of the half lot on the front of the concession so broken. R.S.O. 1960, c. 390, s. 28.

Aliquot parts described

29.—(1) The aliquot part of a half lot in a double front township is the aliquot part of the area of the half lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Boundaries

(2) The boundaries of an aliquot part of a half lot in a double front township of which half lot no aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the half lot, as the case may be, but where in such latter case the front of the half lot is broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed parallel to the straight line joining the rear corners of the half lot, and where the rear boundary of the half lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course of the half lot as shown on the original plan and field notes, or, if such course was not so shown, they shall be surveyed on the astronomic course intended in the original survey for the front of the half lot. R.S.O. 1960, c. 390, s. 29.

Governing course for side lines

30.—(1) A surveyor in establishing the course of a township boundary line or a proof line in a double front township for the purpose of surveying a side line of a half lot shall determine the course of the straight line joining the front and rear ends of such boundary line or proof line in each concession.

Idem

(2) A surveyor in establishing the course of the front of a concession in a double front township for the purpose of measuring an angle with such front to establish a side line of a half lot shall determine the course of the straight line joining the ends of such front, but where the front of a concession was surveyed on more than one course in the original survey, he shall determine the course of the straight line joining the ends of each course of such front. R.S.O. 1960, c. 390, s. 30.

PART V

SECTIONAL TOWNSHIPS WITH DOUBLE FRONTS

Interpretation

31.—(1) In this Part, "sectional township with double fronts" means a township divided into sections and lots where the usual practice in the original survey was to survey the township boundaries, concession lines and side lines of sections defining section boundaries and to establish the front corners of the lots and the section corners.

Re-establishment of lost corners, etc.

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a sectional township with double fronts shall obtain the best evidence available respecting the corner or boundary, but

if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows:

1. If the lost corner is a corner of the township, he shall report the circumstances to the Minister who shall instruct him how to proceed.

2. If the lost corner is a corner of a section on a township boundary, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.

3. If the lost corner is a corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original plan and field notes as a straight line and the side lines between such sections and adjacent sections on the opposite side of the concession line are shown on the original plan and field notes as a straight line and the adjacent corners of the sections are lost, he shall re-establish the corner by intersecting a straight line joining the nearest ascertainable points on the concession line with a straight line joining the nearest ascertainable points on the side line of the section on opposite sides of the concession line, but where such ascertainable points on the side line of the sections are more than twenty chains apart, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey and by joining with a straight line the nearest ascertainable points on the concession line.

4. If the lost corner is a corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original plan and field notes as a straight line and the side lines between such sections and adjacent sections on the opposite side of the concession line are shown on the original plan and field notes not as a straight line and the adjacent corners of the sections are lost, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made

in the original survey and by joining with a straight line the nearest ascertainable points on the concession line.

5. If the lost corner is a corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original plan and field notes as not on a straight line and the side lines between such sections and adjacent sections on the opposite side of the concession line are shown on the original plan and field notes as a straight line and the adjacent corners of the sections are lost, he shall determine the distance between the two nearest undisputed corners on the side lines of the sections, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey and by joining with a straight line the nearest ascertainable points on the side line of the section on opposite sides of the concession line.

6. If the lost corner is the corner of a section and the concession line in front of the adjacent sections on either side of the lost corner is shown on the original plan and field notes as not in a straight line, and the side lines between such sections and adjacent sections on the opposite sides of the concession line are shown on the original plan and field notes as not in a straight line and the section corners of the adjacent sections on the concession line are lost, he shall report the circumstances to the Minister who shall instruct him how to proceed.

7. If the lost corner is a corner of a lot in a section on a front of a concession, he shall determine the distance between the two nearest undisputed corners in the section, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey, but where there is an undisputed corner on the other side of the road allowance, opposite the lost corner, he shall re-establish the lost corner from the position of the undisputed corner, and where the corner on the opposite side of the road allowance is also lost but the position of the original post on the centre line of the road allowance can be determined, such position shall be used in re-establishing the lost corner.

8. If a part of a township boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.

9. If part of a concession line or side line of a section surveyed in the original survey is obliterated between the corners of a section, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.

10. If a concession line is obliterated beyond the last side line of a section in a concession broken by a lake or river at its end, he shall establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point on the concession line in that section.

11. If in a concession wholly or partly broken by a lake or river on its front a side line of a section is obliterated and it was not surveyed across the lake or river, he shall establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point thereof.

Application

(3) Paragraphs 3, 4, 5 and 6 of subsection 2 do not apply to any corner of a section re-established before the 24th day of March, 1911. R.S.O. 1960, c. 390, s. 31.

Fronts of concessions

32. The front of a concession in a sectional township with double fronts is the boundary of the concession that abuts the road allowance between two concessions shown on the original plan or, where a concession is broken by a lake or river, that is nearest the prolongation of such road allowance across the lake or river. R.S.O. 1960, c. 390, s. 32.

Establishment of rear boundaries of concessions

33. A surveyor in establishing the rear boundary of a concession in a sectional township with double fronts shall proceed as follows:

1. If the two concessions in a section are unbroken by a lake or river on their fronts, he shall, if intended in the original survey, join by straight lines the midway points of the side lines of the lots and their productions through the section.

2. If the two concessions in a section are broken by a lake or river on either or both of their fronts but the fronts of the two concessions are not wholly broken at either or both ends of the section, he shall, if intended in the original survey, join by a straight line the midway points between the fronts of the two concessions on the last ascertainable side line in the section at each end of the broken front.

3. If one of the concessions in a section is broken by a lake or river on its front at either or both ends of the section

but not broken through the entire section, he shall join by a straight line a point on the broken side line of the section determined by measuring the distance shown on the original plan and field notes from the unbroken front and the midway point between the fronts of the two concessions on the last ascertainable side line in the section at the end of the broken front.

4. If one of the concessions in a section is wholly broken by a lake or river on its front, he shall measure the distance shown on the original plan and field notes along the side lines of the lots from the front of the unbroken concession.

5. If one of the concessions in a section is partly or wholly broken by a lake or river on its front and at either or both ends of the section and the other concession in the section is partly or wholly broken by a lake or river at either or both ends of the section and partly broken on its front, he shall establish the rear boundary of the concessions so broken on their fronts on the astronomic course intended in the original survey from a point determined by measuring the distance shown on the original plan and field notes from the unbroken part of the front of such concession along the last ascertainable side line in that concession at the end of the broken front.

6. If both concessions in a section are wholly broken by a lake or river on their fronts and no posts were planted in the original survey to establish the rear boundaries of such concessions, he shall establish the rear boundary of such concessions on the astronomic course intended in the original survey from a point established on the limit of the section nearest the end from which the lots are numbered midway between the section corners. R.S.O. 1960, c. 390, s. 33.

Establishment of side lines

34. A surveyor in establishing in a concession in a sectional township with double fronts a side line of a lot that was not surveyed in the original survey shall proceed as follows: R.S.O. 1960, c. 390, s. 34, *part*.

1. Where any such township was surveyed under the 1,000-acre or 1,800-acre sectional system or in the townships of Cumming, Idington, O'Brien, Owens and Williamson in the Territorial District of Cochrane, and if intended in the original survey, he shall establish the side line on the astronomic course shown on the original plan and field notes for the side line of the section in which the lot is located that is nearest the end of the section from which the lots are numbered, or, if intended

in the original survey, he shall establish the side line on the astronomic course shown on the original plan and field notes for the side at the other end of the section in which the lot is located. R.S.O. 1960, c. 390, s. 34, cl. *a*; 1968, c. 131, s. 1 (1).

2. Where any such township, other than the townships of Cumming, Idington, O'Brien, Owens and Williamson in the Territorial District of Cochrane, was surveyed under any sectional system other than the 1,000-acre or 1,800-acre sectional system and if it was intended in the original survey, he shall establish the side line on the astronomic course of the side line of the section in which the lot is located that is nearest the end of the section from which the lots are numbered, or, if intended in the original survey, he shall establish the side line on the astronomic course of the side line of the section in which the lot is located at the other end of the section in which the lot is located, but where the side line of the section from which the lots are numbered is broken by a lake or river to such an extent that the course thereof cannot be accurately determined, he shall establish the side line on the astronomic course of the side line of the section at the other end of the section, and where both side lines of the section are broken by a lake or river to such an extent that the course thereof cannot be accurately determined, he shall establish the side line on the astronomic course shown on the original plan and field notes. R.S.O. 1960, c. 390, s. 34, cl. *b*; 1968, c. 131, s. 1 (2).

3. If the fronts of either or both concessions in a section are partly or wholly broken by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines of such broken lots in accordance with this section from points on the section limit fronting each concession determined by dividing proportionately as intended in the original survey the distance between the two nearest undisputed lot corners in the section, one being on either side of the side line of the broken lot to be established.

4. If one of the concessions in a section is wholly broken by a lake or river on its front and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was

run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines in such a concession in accordance with this section from the rear corners of the lots in the concession to the rear thereof.

5. If both concessions in a section are wholly broken by a lake or river on their fronts and wholly broken at one end of the section and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines in such concessions in accordance with this section from points on the rear concession line determined by measuring along the rear concession line the distance intended in the original survey from the section limit at the end of the section that is not wholly broken.

6. If one of the concessions in a section is broken at either end but not wholly broken on its front by a lake or river and no posts were planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side lines of any such broken lot in accordance with this section from the rear corners of the lots of the concession to the rear.

7. If the end of a concession is broken on its front and rear by a lake or river and no posts were planted on the banks of the lake or river to regulate the widths of the lots, he shall establish the side lines of any such lots in accordance with this section from points determined by measuring the distance intended in the original survey from the nearest undisputed corner along the astronomic course intended in the original survey for the front of the concession. R.S.O. 1960, c. 390, s. 34, cls. (*c-g*).

Aliquot parts

35.—(1) Where the whole or a part of any lot in a sectional township with double fronts was patented before the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Idem

(2) Where the whole or a part of a broken lot in a sectional township with double fronts was patented on or after the 24th day

of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

(3) Where the whole or a part of an unbroken lot in a sectional township with double fronts was patented on or after the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the frontage or depth of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. Idem

(4) The boundaries of an aliquot part of a lot to which subsection 1 or 2 applies and in which lot no aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the lot, as the case may be, but where in such latter case the front of the lot is broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed parallel to the straight line joining the rear corners of the lot, and where the rear boundary of the lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course intended for the front of the concession shown on the original plan and field notes, or, if such course was not so shown, such boundaries shall be surveyed on the astronomic course intended in the original survey for the front of the concession. Boundaries of aliquot parts

(5) The boundaries of an aliquot part of a lot to which subsection 3 applies shall be surveyed on the astronomic course of a side line not surveyed in the original survey from points on the front of the lot determined by dividing the measurement between the lot corners equally or by joining by straight lines points on the side lines determined by dividing the measurement between the front and rear corners of the lot equally without regard to the manner in which the aliquot part is described in any grant or other instrument. R.S.O. 1960, c. 390, s. 35. Idem

36. A surveyor in establishing the course of a boundary line of a section in a sectional township with double fronts for the purpose of surveying a side line of a lot shall determine the course of the straight line joining the section corners. R.S.O. 1960, c. 390, s. 36. Governing course for side lines

PART VI

SECTIONAL TOWNSHIPS WITH SINGLE FRONTS

37.—(1) In this Part, "sectional township with single fronts" means a township divided into sections and lots where the usual Interpretation

practice in the original survey was to survey the township boundaries, concession lines and side lines of the sections and to establish the front corners of the lots and the section corners.

Re-establishment of lost corners, etc.

(2) A surveyor in re-establishing a lost corner or obliterated boundary in a sectional township with single fronts shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows:

1. If the lost corner is a corner of a township, he shall report the circumstances to the Minister who shall instruct him how to proceed.

2. If the lost corner is a corner of a section on a township boundary, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey.

3. If the lost corner is a corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original plan and field notes as a straight line of the side lines between such sections and adjoining sections on the opposite side of the concession line are shown on the original plan and field notes as a straight line, he shall re-establish the corner by intersecting a straight line joining the nearest ascertainable points on the concession line with a straight line joining the nearest ascertainable points on the side line of the section on opposite sides of the concession line, but where such ascertainable points on the side line of the sections are more than twenty chains apart, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey and by joining with a straight line the nearest ascertainable points on the concession line.

4. If the lost corner is a corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original plan and field notes as a straight line and the side lines between such sections and adjoining sections on the opposite side of the concession are shown on the original plan and field notes not as a straight line, he shall determine the distance between the two nearest undisputed corners on the concession line, one being on either side of the lost corner, and he shall re-establish the

corner by dividing the distance proportionately as intended in the original survey and by joining with a straight line the nearest ascertainable points on the concession line.

5. If the lost corner is a corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original plan and field notes not as a straight line and the side lines between such sections and adjoining sections on the opposite side of the concession line are shown on the original plan and field notes as a straight line, he shall determine the distance between the two nearest undisputed corners on the side lines of the sections, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey and by joining with a straight line the nearest ascertainable points on the side line of the section.

6. If the lost corner is the corner of a section and the concession line in front of the adjoining sections on either side of the lost corner is shown on the original plan and field notes not as a straight line and the side lines between such sections and adjoining sections on the opposite sides of the concession line are shown on the original plan and field notes not as a straight line, he shall report the circumstances to the Minister who shall instruct him how to proceed.

7. If the lost corner is a corner of a lot in a section on the front of a concession, he shall determine the distance between the two nearest undisputed corners in the section, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey.

8. If a part of a township boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof in the manner intended in the original survey.

9. If part of a concession line or side line of a section surveyed in the original survey is obliterated between the corners of a section, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.

10. If a concession line is obliterated beyond the last side line of a section in a concession broken by a lake or river at its end, he shall establish it on the astronomic course shown on the original plan and field notes from the

nearest ascertainable point on the concession line in that section.

11. If in a concession wholly or partly broken by a lake or river on its front a side line of a section is obliterated and it was not surveyed across the lake or river, he shall establish it on the astronomic course shown on the original plan and field notes from the nearest ascertainable point thereof.

Application

(3) Paragraphs 3, 4, 5 and 6 of subsection 2 do not apply to any corner of a section re-established before the 24th day of March, 1911. R.S.O. 1960, c. 390, s. 37.

Fronts of concessions

38. The front of a concession in a sectional township with single fronts is the boundary of the concession that is nearest the boundary of the township from which the concessions therein are numbered or lettered. R.S.O. 1960, c. 390, s. 38.

Establishment of side lines

39. A surveyor in establishing in a concession in a sectional township with single fronts a side line of a lot that was not surveyed in the original survey shall proceed as follows:

1. If intended in the original survey, he shall establish the side line on the astronomic course for the side line of the section in which the lot is located that is nearest the end of the section from which the lots are numbered, but where the side line of such section is broken by a lake or river to such an extent that the course thereof cannot be accurately determined, he shall establish such side line on the astronomic course of the side line of the section at the other end of such section, but where both side lines of the section are broken by a lake or river to such an extent that the course thereof cannot be accurately determined, he shall establish such side line on the astronomic course shown on the original plan and field notes.

2. If the front of a concession in a section is partly or wholly broken by a lake or river and no post was planted in the original survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes show that a survey line was run across the lake or river to regulate the widths in front of the broken lots, he shall establish the side line of such broken lots in accordance with this section from a point on the section limit fronting the concession determined by dividing proportionately as intended in the original survey the distance between the corners of the section.

3. If the front of a concession in a section is wholly broken by a lake or river and no post was planted in the original

survey on the banks of the lake or river to regulate the widths in front of the broken lots and the original field notes do not show that a survey line was run in the original survey across the lake or river to regulate the widths in front of the broken lots, he shall establish the side line of such broken lots in accordance with this section from the front corner of the lots in the concession to the rear thereof.

4. If the end of a concession is broken on its front and rear by a lake or river and no posts were planted on the banks of the lake or river to regulate the widths of the lots and the original field notes do not show that a survey line was run in the original survey to regulate the widths in front of the broken lots, he shall establish the side lines of any such lot in accordance with this section from points determined by measuring the distance intended in the original survey from the nearest undisputed corner along the astronomic course intended in the original survey for the front of the concession. R.S.O. 1960, c. 390, s. 39.

Aliquot parts

40.—(1) Where the whole or a part of any lot in a sectional township with single fronts was patented before the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Idem

(2) Where the whole or a part of a broken lot in a sectional township with single fronts was patented on or after the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the area of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Idem

(3) Where the whole or a part of an unbroken lot in a sectional township with single fronts was patented on or after the 24th day of March, 1911, any aliquot part of the lot is the aliquot part of the frontage or depth of the lot whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Boundaries of aliquot parts

(4) The boundaries of an aliquot part of a lot to which subsection 1 or 2 applies and in which lot no aliquot part was surveyed before the 1st day of July, 1944, shall be surveyed on the astronomic course of a side line not surveyed in the original survey or parallel to the straight line joining the front corners of the lot, as the case may be, but where in such latter case the front of the lot is broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed parallel to the

straight line joining the rear corners of the lot, and where the rear boundary of the lot is also broken at either end by a lake or river, the unsurveyed boundaries of the aliquot part shall be surveyed on the astronomic course intended in the original survey for the front of the concession shown on the original plan and field notes, or, if such course was not so shown, such boundaries shall be surveyed on the astronomic course intended for the front of the concession.

Idem

(5) The boundaries of an aliquot part of a lot to which subsection 3 applies shall be surveyed on the astronomic course of a side line not surveyed in the original survey from points on the front of the lot determined by dividing the measurement between the lot corners equally or by joining by straight lines points on the side lines determined by dividing the measurement between the front and rear corners of the lot equally without regard to the manner in which the aliquot part is described in any grant or other instrument. R.S.O. 1960, c. 390, s. 40.

Governing course for side lines

41. A surveyor in establishing the course of a boundary line of a section in a sectional township with single fronts for the purpose of surveying a side line of a lot shall determine the course of the straight line joining the section corners. R.S.O. 1960, c. 390, s. 41.

PART VII

SECTIONAL TOWNSHIPS WITH SECTIONS AND QUARTER SECTIONS

Interpretation

42. In this Part, "sectional township with sections and quarter sections" means,

(*a*) a township divided into sections and quarter sections without road allowances between sections where the usual practice in the original survey was to survey the township boundaries and section lines and to establish the section corners and quarter section corners; or

(*b*) a township divided into sections and quarter sections with road allowances between sections where the usual practice in the original survey was to survey the township boundaries and the section lines on the west and south sides of the road allowances and to establish the section corners and the quarter section corners on the surveyed lines. R.S.O. 1960, c. 390, s. 42.

Widths of certain road allowances

43.—(1) Every road allowance between sections of sectional townships surveyed under instructions of the Department of Interior of Canada is one chain wide and every such road allowance lies north and east of the south and west sides of the road allowance as surveyed in the original survey.

(2) The strips of land formerly forming parts of the original road allowances mentioned in subsection 1 are detached therefrom and attached to and form part of the quarter section immediately adjoining the strips of land on the east and north thereof. Land detached from original road allowances

(3) The section and quarter section corners established in the original survey of the townships mentioned in subsection 1 continue to be the governing points for the purpose of re-establishing a lost corner or obliterated boundary of a section or quarter section and establishing section and quarter section corners not established in the original survey. R.S.O. 1960, c. 390, s. 43. Original section and quarter section posts to govern

44.—(1) A surveyor in re-establishing a lost corner or obliterated boundary surveyed in the original survey in a sectional township with sections and quarter sections with or without road allowances shall obtain the best evidence available respecting the corner or boundary, but if the corner or boundary cannot be re-established in its original position from such evidence, he shall proceed as follows: Re-establishment of lost corners and obliterated boundaries

1. If the lost corner is a corner of a township, he shall report the circumstances to the Minister who shall instruct him how to proceed.

2. If the lost corner is a corner of a section or quarter section on or along a township boundary, he shall determine the distance between the nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.

3. If the lost corner is a corner of a section on a section boundary in the interior of a township, he shall re-establish the corner by intersecting the straight lines joining the nearest ascertainable points on the adjoining intersecting section boundaries.

4. If the lost corner is a corner of a quarter section on a section boundary in the interior of a township, he shall re-establish the corner by joining the nearest ascertainable points on the section boundary and shall determine the distance between the section corners of the section in which the quarter section corner is lost and divide the distance proportionately as intended in the original survey having due regard for any road allowance made in the original survey.

5. If part of a township boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.

6. If a part of a section boundary in the interior of a township is obliterated between the corners of a section, he shall re-establish it by joining the nearest ascertainable points thereof as intended in the original survey.

Establishment of side line of section

(2) A surveyor in establishing an original section line on the north or east side of a road allowance in a township defined in clause *b* of section 42 shall measure the width of the road allowance shown on the original plan and field notes from the section line on the south or west side, as the case may be, of the road allowance. R.S.O. 1960, c. 390, s. 44.

Establishment of section and quarter section corners

45. A surveyor in establishing a corner of a section or quarter section shown on the original plan and field notes on a section line not surveyed in the original survey in a township defined in clause *b* of section 42 shall proceed as follows:

(*a*) If the corner is a corner of a section, he shall measure the widths of the road allowances shown on the original plan and field notes from the two section corners of the adjacent sections on the opposite sides of the road allowances.

(*b*) If the corner is a corner of a quarter section, he shall measure the width of the road allowance as shown on the original plan and field notes from the opposite quarter section corner on the other side of the road allowance and join a straight line between that quarter section corner and the opposite quarter section corner on the section line at the other side of the section. R.S.O. 1960, c. 390, s. 45.

Establishment of interior boundaries of half sections and quarter sections

46. The interior boundaries of half sections or quarter sections shall be surveyed by connecting the opposite quarter section corners on the boundaries of the section by straight lines. R.S.O. 1960, c. 390, s. 46.

Aliquot parts described

47.—(1) The aliquot part of a quarter section in a sectional township with sections and quarter sections is the aliquot part of the frontage or the depth between the quarter section corners whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument.

Idem

(2) The aliquot part of a half section in a sectional township with sections and quarter sections is the aliquot part of the frontage or depth between the quarter section corners of the quarter sections forming the half section whether the area of the

aliquot part as so determined is more or less than that expressed in any grant or other instrument.

(3) The interior boundaries of an aliquot part of a quarter section shall be surveyed by connecting by straight lines the points on the boundaries of the quarter section determined in accordance with this section. R.S.O. 1960, c. 390, s. 47. Establishment of boundaries of aliquot parts

PART VIII

MUNICIPAL AND CROWN RESURVEY

48.—(1) The council of a municipality or the board of trustees of an improvement district, upon its own motion, may, or upon the petition of one-half of the landowners affected shall, pass a by-law authorizing an application to the Minister to cause a survey to be made under his direction for the purpose of fixing the position of a disputed or lost line, boundary or corner that is in the municipality and that has been surveyed under competent authority or under *The Land Titles Act* or *The Registry Act*. R.S.O. 1960, c. 390, s. 48 (1). Application for survey in a municipality R.S.O. 1970, cc. 234, 409

(2) The Minister shall appoint and instruct a surveyor to make the survey for which an application has been made under subsection 1 and when the survey has been made and the plan and field notes have been examined by the Minister, the Minister shall cause a notice to be published once in each week for four consecutive weeks in a newspaper having general circulation in the municipality in which the survey has been made of a hearing to be held by him at a stated place on a day not less than ten days after the last publication of the notice at which hearing the survey will be considered and any interested persons will be heard, and upon the evidence submitted the Minister may direct such amendments to be made as he considers necessary and may confirm the position of the disputed or lost line, boundary or corner fixed by the survey, and any line, boundary or corner so confirmed is, subject to section 49, an unalterable line, boundary or corner and is final and conclusive and shall not be questioned in any court. R.S.O. 1960, c. 390, s. 48 (2); 1968, c. 131, s. 2 (1). Confirmation of survey

(3) The Minister shall mail within ten days of confirming a survey under subsection 2 a copy of the plan and field notes of the survey to the municipality and to every person who appeared at the hearing. 1968, c. 131, s. 2 (2). Notice of confirmation

(4) Subject to section 51, the cost of a survey under subsection 2 shall be paid to the surveyor making the survey by the municipality making the application therefor upon notice in writing by the Minister to the municipality that the survey has been made, and the municipality may levy all or any part of such cost on the landowners affected by the survey in proportion to the Cost of survey

benefit received as determined by by-law of the municipality and collect the same as taxes. R.S.O. 1960, c. 390, s. 48 (3).

Appeal from confirmation

49.—(1) Any person objecting to the confirmation of a survey under subsection 2 of section 48 may appeal to a judge of the Supreme Court who may decide the matter on the evidence before him or direct the trial of an issue and may dismiss the appeal or order the Minister to amend the survey and plan in such manner as the judge considers proper.

Notice of appeal

(2) Notice of an appeal under this section shall be served on the Minister within thirty days of the date of the confirmation by the Minister of the survey.

Filing of plans and field notes

(3) Upon the expiry of thirty days from the confirmation of a survey by the Minister or where an appeal has been taken under subsection 1 within thirty days of the final disposition of the appeal, a copy of the plan and field notes of the survey or of the survey as amended in accordance with the order of the judge, as the case may be, shall be registered by the Minister with the proper master of titles or registrar of deeds and a copy thereof shall be filed with the clerk of the municipality that made the application under subsection 1 of section 48. 1968, c. 131, s. 3.

Application for survey in unorganized territory R.S.O. 1970, cc. 234, 409

50.—(1) The Minister upon the application of an owner or owners of land that is situate in territory without municipal organization and that has been surveyed under competent authority or under *The Land Titles Act* or *The Registry Act* may cause a survey to be made under his direction for the purpose of fixing the position of a disputed or lost line, boundary or corner.

Cost of survey

(2) Subject to section 51, the cost of a survey under subsection 1 shall be paid by the owner or owners making application therefor upon notice by the Minister that the survey has been made. R.S.O. 1960, c. 390, s. 49 (1, 2).

Confirmation of survey

(3) Subsection 2 of section 48 and section 49 apply *mutatis mutandis* to a survey made under this section. 1968, c. 131, s. 4.

Cost of survey may be paid by Province

51. The Minister may pay all or any part of the cost of a survey under section 48 or 50 out of the moneys that are appropriated by the Legislature for ground surveys. R.S.O. 1960, c. 390, s. 50.

Crown resurvey

52.—(1) The Minister may cause a survey to be made under his direction for the purpose of fixing the position of a disputed or lost line, boundary or corner that was surveyed under competent authority, and in any such case the Minister may direct that subsection 2 of section 48 and section 49 apply *mutatis mutandis*. 1968, c. 131, s. 5.

Confirmation of Crown resurveys

(2) Where a survey similar to a survey under subsection 1 was made under the instructions of the Minister before the 1st day of

June, 1947, the Minister may, upon compliance with the requirements as to publication of notice and the holding of a hearing set forth in subsection 2 of section 48, confirm the survey and such confirmation has the like force and effect as a confirmation under the said subsection. R.S.O. 1960, c. 390, s. 51 (2).

PART IX

PLANS OF SUBDIVISION

Interpretation R.S.O. 1970, cc. 234, 409

53. In this Part, "plan of subdivision" means a plan of subdivision that is registered under *The Land Titles Act* or under *The Registry Act*. R.S.O. 1960, c. 390, s. 52.

True and unalterable line, boundary and corner

54. Every line, boundary and corner established by survey and shown on a plan of subdivision is a true and unalterable line, boundary or corner, as the case may be, with respect to such plan and shall be deemed to be defined by the original posts or blazed trees in the first survey thereof, whether or not the actual measurements between the original posts are the same as shown on the plan of subdivision or expressed in any grant or other instrument. R.S.O. 1960, c. 390, s. 53.

Re-establishment of lost corners, etc.

55. A surveyor in re-establishing a line, boundary or corner shown on a plan of subdivision shall obtain the best evidence available respecting the line, boundary or corner, but if the line, boundary or corner cannot be re-established in its original position from such evidence, he shall proceed as follows:

1. If a part of a line or boundary is obliterated, he shall re-establish it by joining the nearest ascertainable points thereof in the manner shown on the plan of subdivision.

2. If a corner on a line or boundary is lost, he shall re-establish it by the method that accords with the intent of the survey as shown on the plan of subdivision and, if it is consistent with the intent of the survey as shown on the plan of subdivision, he shall determine the distance between the two nearest undisputed corners, one being on either side of the lost corner, and he shall re-establish the corner by dividing the distance proportionately as shown on the plan of subdivision having due regard for any road allowance, highway, street, lane, walk or common shown on the plan of subdivision. R.S.O. 1960, c. 390, s. 54.

Bearings

56. Every bearing shown on a plan of subdivision shall be referred to one reference line designated on the plan and the course of such reference line shall be the true bearing and shall be

determined by astronomic observation or other satisfactory method. R.S.O. 1960, c. 390, s. 55 (3).

Public roads, etc. R.S.O. 1970, cc. 234, 409

57.—(1) Subject to *The Land Titles Act* or *The Registry Act* as to the amendment or alteration of plans, every road allowance, highway, street, lane, walk and common shown on a plan of subdivision shall be deemed to be a public road, highway, street, lane, walk and common, respectively.

Road allowance closed

(2) Where under subsection 1 a road allowance, highway, street, lane or walk in a municipality is a public highway but the municipality has not assumed it for public use and it or any part of it is closed by an alteration of the plan under *The Land Titles Act*, *The Registry Act* or other provision in that behalf, it or the part of it so closed belongs to the owners of the land abutting thereon.

Different owners

(3) Where several parcels of land having different owners abut on the road allowance, highway, street, lane or walk or the part thereof so closed, the owner of each parcel is entitled to the part so closed on which his land abuts to the middle line of the road allowance, highway, street, lane or walk or the part thereof so closed.

Where public way abuts

(4) Where a part of the road allowance, highway, street, lane or walk so closed is abutted on one side by another road allowance, highway, street, lane or walk or by a stream, river or other body of water over which the public have rights of navigation or of floating timber, the whole width of such part belongs to the owners whose lands abut thereon opposite the road allowance, highway, street, lane, walk, stream, river or other body of water.

Side lines

(5) The division line between two parcels of land having different owners produced to the middle line of the road allowance, highway, street, lane or walk so closed or across the same in cases coming within subsection 4 is the division line between the parts so closed to which the owners of the parcels are respectively entitled.

Several owners

(6) Where a parcel of land abutting a road allowance, highway, street, lane or walk so closed is owned by more than one person, each such owner is entitled to the like estate or interest in the part so closed as he has in the parcel abutting thereon.

Where parcel encumbered

(7) Where a parcel of land abutting a road allowance, highway, street, lane or walk so closed is encumbered, the encumbrance extends to and includes the part thereof to which the owner of such parcel becomes entitled under this section.

Duty to convey

(8) Where a road allowance, highway, street, lane or walk is so closed, the municipality in which the same was vested shall execute a conveyance to each owner of the part that belongs to him under this section, and the municipality shall register the conveyance in the proper land titles or registry office and shall

bear the cost of preparing and registering it. R.S.O. 1960, c. 390, s. 56.

PART X

SURVEYS OF LAND UNDER THE HIGHWAY IMPROVEMENT ACT

True and unalterable boundaries

58. All posts and monuments heretofore or hereafter marked, placed or planted for the purpose of designating and defining the boundaries of any parcel of land vested in the Crown and under the jurisdiction and control of the Department of Highways under *The Highway Improvement Act* or a predecessor thereof are true and unalterable and fix the boundaries of such parcel, whether or not the actual measurements between the posts or monuments are the same as shown on the plan thereof or mentioned or expressed in any grant or other instrument in respect of such parcel and whether or not such parcel remains vested in the Crown. R.S.O. 1960, c. 390, s. 57.

R.S.O. 1970, c. 201

PART XI

MISCELLANEOUS

Aliquot parts of parcels

59. The aliquot part of a parcel of land that is not an aliquot part of a township lot is the aliquot part of the area of the parcel of land whether the area of the aliquot part as so determined is more or less than that expressed in any grant or other instrument. R.S.O. 1960, c. 390, s. 58.

Survey monuments, etc.

60. The plan of a survey of land shall show the position, type and form of every survey monument or object used to define a point placed, planted, set or marked in the survey. 1960-61, c. 97, s. 2.

Delegation of Minister's powers

61. The Minister may assign any of the powers or duties conferred or imposed upon him by this Act to the Surveyor General. R.S.O. 1960, c. 390, s. 59.

Regulations

62. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the methods of performing surveys and for the purpose of illustrating any method by words and sketches, or either of them;

(*b*) establishing, governing and regulating systems of co-ordinate surveys;

(*c*) prescribing the kind and form of monuments used to identify points in surveys and prescribing how and where they are to be used and how they are to be designated on plans of survey;

(*d*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 390, s. 60; 1967, c. 98, s. 1.

CHAPTER 454

The Survivorship Act

Order of death presumed

1.—(1) Where two or more persons die at the same time or in circumstances rendering it uncertain which of them survived the other or others, such deaths shall, subject to subsections 2 and 3, for all purposes affecting the title to property, be presumed to have occurred in the order of seniority, and accordingly the younger shall be deemed to have survived the older.

Exceptions R.S.O. 1970, cc. 224, 499

(2) This section shall be read and construed subject to sections 197 and 260 of *The Insurance Act* and section 36 of *The Wills Act*.

Idem

(3) Where a testator and a person who, if he had survived the testator, would have been a beneficiary of property under the will, die at the same time or in circumstances rendering it uncertain which of them survived the other, and the will contains provisions for the disposition of the property in case that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other, then for the purpose of that disposition the will takes effect as if that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other, as the case may be. R.S.O. 1960, c. 391, s. 1.

CHAPTER 455

The Teachers' Superannuation Act

1. In this Act, Interpretation

(a) "actuary" means a Fellow of the Canadian Institute of Actuaries;

(b) "board" means a public school board, separate school board, secondary school board or board of education;

(c) "Commission" means the Teachers' Superannuation Commission;

(d) "Department" means the Department of Education;

(e) "employed" means engaged under contract for any period,

(i) as a teacher in an elementary school or a secondary school,

(ii) as a teacher in a school or class designated by the regulations,

(iii) as a teacher in a school outside Ontario under a teachers' exchange system authorized by the Minister,

(iv) as a teacher in a school or class that is maintained by the Government of Canada or the Government of Ontario, or both, for the instruction of members or former members of the Canadian Armed Forces and that is designated by the regulations, where the teacher has elected to come under this Act,

(v) as a teacher by the minister of a department of the Government of Ontario,

(vi) as a teacher in Elliot Lake Centre for Continuing Education, Moosonee Education Centre, the Institute of Child Study, Retarded Children's Education Authority, the University of Toronto Schools, the Ontario College of Art, the Royal Ontario Museum, Ryerson Polytechnical Institute, St. Mary's Training School for Girls, Toronto, St. John's Training School for Boys, Uxbridge, St. Joseph's Training School for Boys, Alfred, or in the civil service as defined in *The Public Service Act*, R.S.O. 1970, c. 386

(vii) as a co-ordinator or instructor under any agreement entered into under the *Technical and Vocational Training Assistance Act* (Canada), 1960-61 c. 6 (Can.)

(viii) as a supervisory officer by a board or in the Department,

(ix) as an officer of an association or body of teachers engaged in advancing the interests of education and designated by the regulations,

(x) as an officer of an association or body of boards or of trustees and ratepayers engaged in advancing the interests of education and designated by the regulations,

(xi) by the Minister or a board in any capacity designated by the regulations,

(xii) by any organization and in any capacity designated by the regulations,

but no person shall be deemed to be employed who,

(xiii) is not qualified as a teacher under the Acts and regulations administered by the Department,

(xiv) is regularly engaged outside Ontario and who is performing services in Ontario under a teachers' exchange system approved by the Minister, or

(xv) is a contributor to a fund to which the Crown contributes except the Teachers' Superannuation Fund;

(*f*) "Fund" means the Teachers' Superannuation Fund;

(*g*) "Minister" means the Minister of Education;

(*h*) "regulations" means the regulations made under this Act;

(*i*) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 392, s. 1; 1962-63, c. 138, s. 1 (2); 1966, c. 152, s. 1; 1968, c. 133, s. 1, *amended*.

Commission; **2.**—(1) The Teachers' Superannuation Commission is continued.

composition (2) The Commission shall be composed of,

(*a*) six persons who shall be appointed by the Minister; and

(*b*) five contributors to the Fund who shall be elected by ballot by the contributors to the Fund who are members of the teachers' organizations designated by the regulations.

chairman (3) The Minister shall designate triennially one of the members as chairman. R.S.O. 1960, c. 392, s. 2 (1-3).

vacancies (4) When a vacancy occurs among the members, another member shall be appointed by the Minister or by the governing body of the teachers' organization concerned, as the case may be, so soon as is practicable after the vacancy occurs, and the person

so appointed shall hold office for the unexpired portion of the term of the member he replaces. 1966, c. 152, s. 2.

re-election, etc.

(5) Each member is eligible for reappointment or re-election, as the case may be.

term of office

(6) Each member shall hold office for three years and until his successor is appointed or elected. R.S.O. 1960, c. 392, s. 2 (5, 6), *amended*.

meetings

(7) The Commission shall meet in the offices of the Department of Education in Toronto on,

(*a*) the fourth Friday in September;

(*b*) the fourth Friday in November;

(*c*) the third Friday in January;

(*d*) the Thursday following the second or winter term within the meaning of *The Schools Administration Act*; R.S.O. 1970, c. 424

(*e*) the third Saturday in June,

and at such other times as the chairman may determine. 1962-63, c. 138, s. 2; 1968, c. 133, s. 2.

quorum

(8) Eight members constitute a quorum. R.S.O. 1960, c. 392, s. 2 (8).

Duties and powers

3. It is the duty of the Commission to administer this Act and in so doing it shall determine the right of every applicant to receive an allowance or a refund and the amount thereof. R.S.O. 1960, c. 392, s. 3.

Officers, staff, etc.

4.—(1) Subject to the approval of the Lieutenant Governor in Council, the Commission may,

(*a*) establish job classifications, salary ranges and the terms and conditions of employment for its employees; and

(*b*) appoint a director, an actuary, a solicitor, a medical referee and such other employees as are considered proper. 1966, c. 152, s. 3 (1), *amended*.

Salaries

(2) The employees of the Commission shall be paid out of the Fund.

R.S.O. 1970, c. 387, applicable

(3) *The Public Service Superannuation Act* applies to the permanent employees of the Commission as though the Commission had been designated by the Lieutenant Governor in Council under section 27 of that Act. 1966, c. 152, s. 3 (2, 3).

Fund

5.—(1) The Teachers' Superannuation Fund is continued.

Custodian of Fund

(2) The Treasurer is the custodian of the Fund. R.S.O. 1960, c. 392, s. 5 (1, 2).

Actuarial valuation

(3) The actuary of the Commission shall make an actuarial valuation of the Fund as of the 31st day of December, 1972 and of each third year thereafter, but the Minister may direct him to make additional actuarial valuations of the Fund at any time. R.S.O. 1960, c. 392, s. 5 (3); 1966, c. 152, s. 4, *amended.*

Receiving gifts, etc., for Fund

6. The Commission may receive any gift, devise or bequest made to or for the purposes of the Fund and shall pay it or the proceeds thereof into the Fund to be applied as directed by the donor, and, if so directed, in additional benefits to those provided by this Act or, in the absence of such a direction, to the general purposes of the Fund. R.S.O. 1960, c. 392, s. 6.

Issue of Ontario Government stock confirmed

7.—(1) The issue by the Treasurer of Ontario Government stock in the sum of $31,200,000 dated the 1st day of November, 1942, and bearing interest at the rate of 4¾ per cent per year payable half-yearly and maturing on the 1st day of November, 1982, and being a charge upon the Consolidated Revenue Fund, is confirmed.

1952 issue of 40-year Ontario Government stock confirmed

(2) The issue by the Treasurer of Ontario Government stock in the sum of $43,000,000 dated the 1st day of November, 1952, and bearing interest at the rate of 4½ per cent per year payable half-yearly and maturing on the 1st day of November, 1992, and being a charge upon the Consolidated Revenue Fund, is confirmed.

Annual debentures 1952-62 authorized

(3) In each year during the period commencing the 1st day of November, 1952, and ending on the 1st day of November, 1962, the Treasurer shall issue Ontario Government debentures or stock for the amount of the surplus funds in the Fund accumulated and not required for current expenditures, such debentures or stock to become due and payable on the 1st day of November, 1962, and to bear interest at the rate of 4½ per cent per year payable half-yearly.

1962 issue of 40-year Ontario Government stock authorized

(4) On the 1st day of November, 1962, the Treasurer shall issue Ontario Government debentures or stock for the amount of the surplus funds accumulated in the Fund and not required for current expenditures and for the amount of the debentures or stock issued during the preceding ten-year period under subsection 3, such debentures or stock to become due and payable on the 1st day of November, 2002, and to bear interest at the rate of 4½ per cent per year payable half-yearly. R.S.O. 1960, c. 392, s. 7 (1-4), *amended.*

Debentures authorized, 10-year periods

(5) In each year during each succeeding ten-year period the Treasurer shall issue Ontario Government debentures or stock for the amount of surplus funds in the Fund accumulated from time to time and not required for current expenditures, such debentures or stock to become due and payable on the last day of such

ten-year period and to bear interest, payable half-yearly, at a rate agreed upon at the beginning of such period between the Treasurer and the Commission and approved by the Lieutenant Governor in Council as being applicable for that period.

Forty-year debentures

(6) On the 1st day of November, 1972, and on the 1st day of November of each succeeding ten-year period, the Treasurer shall issue Ontario Government debentures or stock for the amount of the surplus funds accumulated in the Fund and not required for current expenditures and for the amount of the debentures or stock issued during the next preceding ten-year period under subsection 5, such debentures or stock to become due and payable at the end of a period of forty years from the date of issue and to bear interest at the same rate as the debentures or stock issued under subsection 5 during the ten-year period next preceding the date of the issue of such forty-year debentures or stock.

Charge upon Consolidated Revenue Fund

(7) The Ontario Government debentures and stock issued under this section are a charge upon the Consolidated Revenue Fund.

Securities to be deposited

(8) All securities belonging to the Fund shall be deposited with the Treasurer who is responsible for their safekeeping. R.S.O. 1960, c. 392, s. 7 (5-8).

Deficiency

8. When the payments into the Fund in any year are insufficient to make the required payments out of the Fund, the deficiency shall be made up out of the Consolidated Revenue Fund. R.S.O. 1960, c. 392, s. 8.

Accounts

9. Accounts shall be kept in which shall be entered all assets and liabilities and payments into and disbursements out of the Fund. R.S.O. 1960, c. 392, s. 9.

Fiscal year

10. The period from the 1st day of November to the 31st day of October of the year next following constitutes the fiscal year of the Commission. R.S.O. 1960, c. 392, s. 10.

Interest

11. Except where otherwise specifically provided by this Act,

(*a*) interest payable under this Act or the regulations shall be at the rate of 5 per cent per year, compounded half-yearly; and

(*b*) interest is payable on any payment into or out of the Fund, other than an allowance, that is six months or more in arrear. R.S.O. 1960, c. 392, s. 11; 1966, c. 152, s. 5, *amended*.

Audit

12.—(1) The accounts of the Fund shall be audited and the securities in which the moneys of the Fund may be invested shall be examined and checked in each year by the Provincial Auditor

or by such other auditor as the Lieutenant Governor in Council appoints, and the auditor shall make an annual report, and prepare and furnish such other statements as the Treasurer may require. R.S.O. 1960, c. 392, s. 12 (1), *amended*.

Costs and expenses of audit

(2) The cost of such audits and reports shall be paid by the Commission out of the Fund. R.S.O. 1960, c. 392, s. 12 (2).

Annual report

13.—(1) The Commission shall annually, after the close of its fiscal year, file with the Minister a report upon the affairs of the Commission. 1964, c. 115, s. 2 (1), *amended*.

Idem

(2) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1964, c. 115, s. 2.

Payments into Fund

14. An account shall be kept in a chartered bank of Canada in the name of the Treasurer as custodian of the Fund, and every amount received as a payment into the Fund shall be deposited to the credit of such account. R.S.O. 1960, c. 392, s. 14.

Payments out of Fund

15.—(1) Every allowance, every refund and the expenses of the administration of this Act are payable out of the Fund, and every such payment shall be made by cheque of the Commission signed by any two of,

(*a*) the chairman of the Commission;

(*b*) a member of the Commission designated by the Commission for the purpose;

(*c*) the director of the Commission,

and any such signature may be affixed to any such cheque by use of a rubber stamp or by printing, lithographing, engraving or by other mechanical means. 1960-62, c. 137, s. 1; 1966, c. 152, s. 6.

Days of employment to be indicated

(2) The payee of a cheque for an allowance shall indicate on the back thereof the number of days, if any, he was employed during the month for which the cheque was issued and the amount of the gross salary for such days, and if he fails to do so, the Commission may direct that no further allowance be paid him until he provides such information to the Commission. R.S.O. 1960, c. 392, s. 15 (2); 1968, c. 133, s. 3.

Bank loans

16.—(1) The Treasurer, as custodian of the Fund, may, at the request of the Minister, arrange for a chartered bank of Canada to advance to the Fund, by way of overdraft or otherwise, any amount required temporarily to provide for payments out of the Fund and may furnish securities of the Commission as security therefor, and every such advance shall be repaid within one year out of interest or contributions to the Fund, or both.

(2) The Treasurer, as custodian of the Fund, may at the request of the Minister, when both the Treasurer and the Minister consider it advisable for the sound and efficient management of the Fund, invest any part of the Fund for any period not exceeding twelve months in any securities in which the Treasurer may invest the public moneys of Ontario. R.S.O. 1960, c. 392, s. 16. Short-term investments

17.—(1) Any school, college, academy or other educational institution, Designated private schools

(*a*) that is giving instruction equivalent to that given in elementary or secondary schools in Ontario;

(*b*) that is not operated for personal profit or gain and where the profits, if any, are used to develop its objects;

(*c*) that is not supported in any way by school taxes or by provincial or municipal grants; and

(*d*) whose governing body has undertaken in writing,

(i) to make such annual reports to the Commission as the Commission may require and to supply such information as to its constitution, operations, teaching staff and otherwise as the Commission may require, and

(ii) to pay monthly to the Commission a sum equal to the sum required to be paid under section 19 for those persons on its teaching staff who are contributors to the Fund under this section together with a sum calculated thereon at a rate equal to the rate of the contributions made from time to time to the Fund by the Province under section 22,

may be designated by the Lieutenant Governor in Council as a private school for the purposes of this Act, effective on the 1st day of September next following the designation, and thereupon this Act and the regulations apply to such designated private school as if it were specifically named in subclause vi of clause *e* of section 1. R.S.O. 1960, c. 392, s. 17 (1); 1968-69, c. 126, s. 1.

(2) Where a person on the teaching staff of a designated private school who is contributing to the Fund receives, in addition to his salary, any board, lodging or other perquisite, his salary shall, for the purposes of this Act, be determined by the Commission, regard being had to the value of the board, lodging or other perquisite. Determination of salary

(3) Subject to the right of a person to establish credit in the Fund in respect of war service under subsection 6, a person may establish credit in the Fund under this section only in respect of teaching service rendered while qualified as a teacher under the Acts and regulations administered by the Department and only in What teaching service may count

respect of teaching service equivalent to that given in elementary or secondary schools in Ontario.

Who must contribute for current service

(4) Subject to subsection 3 and except as provided in subsection 5, every person on the teaching staff of a designated private school shall be deemed to be employed within the meaning of this Act. R.S.O. 1960, c. 392, s. 17 (2-4).

Exceptions

(5) Every person,

(*a*) who was qualified as a teacher under the Acts and regulations administered by the Department and who was on the teaching staff of a designated private school at the time the designation became effective; or

(*b*) who was not qualified as a teacher under the Acts and regulations administered by the Department and who was on the teaching staff of a designated private school at the time the designation became effective and who became so qualified after the designation became effective,

may, by notice in writing to the governing body of the school and to the Commission, given within three months after the designation became effective if under clause *a* or within three months after becoming qualified if under clause *b*, exclude himself from the benefits and obligations of this Act during the time that he is on the teaching staff of a designated private school. 1960-61, c. 98, s. 1.

Establishment of credit for past service

(6) Every person who comes within subsection 4 may establish credit in the Fund in respect of past teaching service in any designated private school in accordance with the regulations or in any other school to which this Act applies in accordance with section 50, or in respect of war service in accordance with the regulations.

Termination of designation

(7) The Lieutenant Governor in Council may terminate the designation of a designated private school effective on the 31st day of August next following, and thereupon the persons on the teaching staff of that school who contributed to the Fund shall, for the purposes of this Act, be deemed to have withdrawn from the profession. R.S.O. 1960, c. 392, s. 17 (6, 7).

Special U. of T. group

18. Every person,

(*a*) who was a contributor to the University of Toronto Pension Fund;

(*b*) who has transferred or transfers to the Fund;

(*c*) who has credit in the Fund for a period of ten or more years of service; and

(*d*) who had or has credit in the University of Toronto Pension Fund for a period which, if that period and the

period mentioned in clause *c* had both been served under this Act, would have entitled him to a superannuation allowance under this Act,

is entitled to a superannuation allowance calculated on the basis of his average salary for the seven years during which his salary was highest and for which he contributed to the Fund and bearing the same ratio to the allowance to which he would have been entitled if he had contributed to the Fund for the period for which he contributed to the University of Toronto Pension Fund as the number of his years of contribution to the Fund bears to the number, not exceeding thirty-five, of his years of contribution to the Fund and the University of Toronto Pension Fund. 1966, c. 152, s. 7, *part*.

O.C.E. staff, election as to fund

19.—(1) Every person who joins the staff of a college of education and who is eligible to contribute to the Fund shall, within three months after joining such staff, by notice in writing to the Commission and to the university of which the college is a part, elect to contribute to the Fund or to the pension fund of the university.

O.I.S.E. staff, election as to fund

(2) Every person on the staff of The Ontario Institute for Studies in Education who is eligible to contribute to the Fund shall, within three months after joining such staff, by notice in writing to the Commission and to the Institute, elect to contribute to the Fund or to the pension fund of the Institute.

Lakehead University 1965, c. 54

(3) Notwithstanding section 18 of *The Lakehead University Act, 1965*, every person on the staff of Lakehead University who is eligible to contribute to the Fund shall, within three months after joining such staff, by notice in writing to the Commission and to the University, elect to contribute to the Fund or to the pension fund of the University. 1966, c. 152, s. 7, *part, amended*.

C.A.A.T.

(4) Every person on the staff of a college of applied arts and technology who is eligible to contribute to the Fund shall, within three months after joining such staff, by notice in writing to the Commission and to the college, elect to contribute to the Fund or to the retirement fund of the college.

Teachers' colleges

(5) Every person on the staff of a teachers' college who is eligible to contribute to the Fund shall, within three months after the teachers' college becomes part of a university or within three months after joining such staff, whichever is the later, by notice in writing to the Commission and to the college, elect to contribute to the Fund or to the pension fund of the university of which the college is a part. 1968, c. 133, s. 4 (1), *amended*.

No other election

(6) A person to whom subsection 1, 2, 3, 4 or 5 applies shall not have any other right of election and, if he fails to exercise his right of election thereunder, he shall be deemed to have elected to

contribute to the Fund. 1966, c. 152, s. 7, *part*; 1967, c. 99, s. 1 (2); 1968, c. 133, s. 4 (2).

Effect of election

(7) A person who elects or has elected or is deemed to have elected to contribute to the Fund under this section or a predecessor thereof shall be deemed to be employed as if the institution in which he is employed were named in subclause vi of clause *e* of section 1. 1968, c. 133, s. 4 (3), *amended*.

Contributions

20.—(1) Every person who is employed and who contributes to the Canada Pension Plan shall contribute to the Fund from his salary for the calendar year,

(*a*) 6 per cent of the part thereof which is below the year's basic exemption as prescribed by the *Canada Pension Plan*;

1964-65, c. 51 (Can.)

(*b*) 4.2 per cent of the part thereof which is between the year's basic exemption and the year's maximum pensionable earnings as prescribed by the *Canada Pension Plan*; and

(*c*) 6 per cent of the part thereof which is in excess of the year's maximum pensionable earnings.

Idem

(2) Every person who is employed and who does not contribute to the Canada Pension Plan shall contribute to the Fund 6 per cent of his salary. 1968-69, c. 126, s. 2 (1).

Interpretation

(3) In this section, "salary" means the yearly salary specified in the contract of employment between the person and his board, and includes a cost of living or other similar bonus but does not include any additional remuneration for extra services.

Salary from different sources

(4) Where a person receives part of his salary in respect of employment of a type prescribed in subclauses i to xii of clause *e* of section 1 and part of his salary in respect of other employment, for the purposes of this Act,

(*a*) his salary shall be deemed to be only the amount of the salary that he receives in respect of such prescribed employment; and

(*b*) he shall be given credit for only that portion of each school year that bears the same proportion to the school year as the portion of his salary that he receives in respect of such prescribed employment bears to his total salary for such year. R.S.O. 1960, c. 392, s. 18 (3, 4).

Payment of contributions

21.—(1) Contributions shall be deducted by the board or other authority employing the person from each payment of his salary and shall be forwarded to the Commission on or before the fifteenth day of the month following the month in which the payment was made.

(2) Notwithstanding clause *b* of section 11, interest shall be payable by the board or other authority on any sum in arrears under subsection 1. Interest

(3) Every board and other authority shall report to the Commission from time to time as required by the Commission, but not more often than once a month, as to the contributions deducted. 1968-69, c. 126, s. 3. Report of contributions

(4) In the case of a person who is a contributor to the Fund and whose salary is paid by the Government of Ontario, the amount payable by him shall be retained out of his salary and placed to the credit of the Fund. R.S.O. 1960, c. 392, s. 20. Special cases

(5) A person who, When contributions may be made directly

(*a*) ceases to be employed or is granted leave of absence from his employment without salary for any purpose and for a period permitted by the regulations; or

(*b*) is employed by a board that refuses or neglects to comply with subsection 1 or that by reason of non-compliance with any statute or regulation is not entitled to share in the legislative grant for the schools under its jurisdiction,

may contribute to the Fund on such terms and conditions and at such times as the regulations prescribe. R.S.O. 1960, c. 392, s. 21.

(6) Any contribution, except when made under clause *a* of subsection 5, that through error has not been received in the regular way and at the customary time may be subsequently accepted by the Commission. R.S.O. 1960, c. 392, s. 22. Error in tendering contribution

22.—(1) Annually and at the same time as the total legislative grant is payable to the board or other authority, the Treasurer shall place to the credit of the Fund a sum equal to the contributions made by or on behalf of the persons to whom this Act or the regulations apply. Contributions by Province

(2) Subsection 1 does not apply, Exceptions

(*a*) in the case of persons employed within the meaning of subclause ix, x or xii of clause *e* of section 1, but the respective organizations employing such persons shall pay monthly to the Commission a sum equal to the sum that would otherwise be credited to the Fund by the Treasurer under subsection 1 in respect of such persons; or

(*b*) in the case of persons who under the regulations are themselves required to pay a sum in lieu of the sum that would otherwise be paid by the Treasurer under subsection 1. 1968, c. 133, s. 5.

Interest

23. All sums placed to the credit of the Fund during a fiscal year under section 22 shall be deemed to have been credited as of the 1st day of June in the preceding fiscal year, and the Treasurer shall pay interest thereon for the period between that day and the last day of the fiscal year in which the sums were actually received. R.S.O. 1960, c. 392, s. 24; 1968-69, c. 126, s. 4.

Retirement at 62 after 35 years service, "A" pension

24. Every person who,

(*a*) has credit in the Fund for thirty-five or more years of service;

(*b*) is sixty-two or more years of age; and

(*c*) has ceased to be employed,

is entitled to an annual superannuation allowance during his lifetime. R.S.O. 1960, c. 392, s. 25 (1); 1966, c. 152, s. 11 (1).

Amount

25.—(1) The amount of such allowance shall be computed by multiplying an amount equal to 2 per cent of his average salary for the seven years during which his salary was highest by the number of years, not exceeding thirty-five, for which he has credit in the Fund, reduced by an amount equal to 0.7 per cent of such average salary for each year of credit in the Fund after the year 1965, but such reduction shall not be computed upon the amount, if any, that such average salary exceeds the year's maximum pensionable earnings under the *Canada Pension Plan* established at the time he ceased to be employed.

Idem

(2) Where the person ceased to be employed before attaining the age at which he could become eligible for a benefit under the *Canada Pension Plan*, the reduction mentioned in subsection 1 does not apply until the first day of the month following the month in which he attains such age.

Idem

(3) Where the person ceased to be employed before the year 1967, the reduction mentioned in subsection 1 does not apply.

Idem

(4) Where the person did not contribute to the Canada Pension Plan, the reduction mentioned in subsection 1 does not apply. 1966, c. 152, s. 11 (2).

Computation

(5) For the purpose of computing the amount of such allowance,

(*a*) each school year for which his contributions are in the Fund at the time of his application for an allowance counts as a school year of credit;

(*b*) each school year for which he was employed before the 1st day of April, 1917, counts as one-half school year of credit; and

(*c*) each school year for which he made contributions to the Public Service Superannuation Fund, which contribu-

tions are in the Fund at the time of his application for an allowance, counts as a school year of credit. R.S.O. 1960, c. 392, s. 25 (3).

Retirement after 40 years service, "A" pension

26.—(1) Every person who,

(*a*) has credit in the Fund for forty or more years of service; and

(*b*) has ceased to be employed,

is entitled to an annual superannuation allowance during his lifetime. R.S.O. 1960, c. 392, s. 26 (1); 1966, c. 152, s. 12 (1).

Amount

(2) The amount of such allowance shall be computed in the manner prescribed by section 24. R.S.O. 1960, c. 392, s. 26 (2); 1966, c. 152, s. 12 (2).

Retirement after 30 years service, "B" pension

27.—(1) Every person who,

(*a*) has credit in the Fund for thirty or more years of service; and

(*b*) has ceased to be employed,

is entitled to an annual superannuation allowance during his lifetime. R.S.O. 1960, c. 392, s. 27 (1); 1966, c. 152, s. 13 (1).

Amount

(2) The amount of such allowance shall be computed in the manner prescribed by subsections 1, 3 and 4 of section 25, but shall be further reduced or reduced, as the case may be,

(*a*) in the case of a person who has attained the age of sixty-one years but has not attained the age of sixty-five years at the beginning of the month following the month during which he ceased to be employed, by 5 per cent; or

(*b*) in the case of a person who has not attained the age of sixty-one years at the beginning of the month following the month during which he ceased to be employed, at the rate of 5 per cent in respect of each year by which he is less than sixty-two years of age at the beginning of the month in which his pension is to commence. 1966, c. 152, s. 13 (2), *part*.

Idem

(3) Where a person ceased to be employed after having attained the age of sixty-two years and before he has attained the age at which he could become eligible for a benefit under the Canada Pension Plan, the reduction mentioned in subsection 1 of section 25 does not apply until the first day of the month following the month in which he attains such age. 1967, c. 99, s. 2.

Commencement

(4) Notwithstanding section 39, where a person ceased to be employed before attaining the age of fifty-five years, an allowance under this section shall commence on the first day of the month following the month in which the person entitled thereto attains the age of fifty-five years. 1966, c. 152, s. 13 (2), *part*.

Deferred pension

28.—(1) Every person who,

(*a*) has credit in the Fund for ten or more years of service;

(*b*) has ceased to be employed after the calendar year in which he attained forty-four years of age; and

(*c*) is not otherwise entitled to an allowance under this Act,

is entitled to an annual superannuation allowance during his lifetime.

Amount

(2) The amount of such allowance shall be computed in the manner prescribed by subsections 1, 3 and 4 of section 25. 1966, c. 152, s. 14 (1).

Commencement

(3) Notwithstanding section 39, an allowance under this section shall commence as of the first day of the month in which the person entitled thereto attains the age of sixty-five years, or, where he is employed in the month in which he attains the age of sixty-five years, then on the first day of the month following the month in which he ceased to be employed. 1964, c. 115, s. 3, *part*.

Idem

(4) Notwithstanding subsection 3, a person entitled to an allowance under this section may elect to have the allowance commence on the first day of any month after he has attained the age of fifty-five years so long as he is not employed at that time, and in such case the amount of the allowance shall be further reduced or reduced, as the case may be, at the rate of 5 per cent in respect of each year by which his age is less than sixty-five years at the time his allowance commences. 1966, c. 152, s. 14 (2).

Time of payment

(5) Notwithstanding section 38, an allowance under this section may be paid, in the discretion of the Commission, in a lump sum annually, or in semi-annual, quarterly or monthly instalments. 1964, c. 115, s. 3, *part*.

Deferred pension option

(6) Every person who,

(*a*) has credit in the Fund for ten or more years of service;

(*b*) has ceased to be employed before the calendar year in which he attained forty-five years of age; and

(*c*) is not otherwise entitled to an allowance under this Act,

is entitled either to an annual superannuation allowance during his lifetime or to a refund of his contributions under subsection 1 of section 49.

Idem

(7) Where a person elects to take an allowance under subsection 6, subsections 2, 3, 4 and 5 apply *mutatis mutandis*. 1966, c. 152, s. 15.

Retirement on account of total permanent disability "C" pension

29.—(1) Every person who,

(*a*) has credit in the Fund for ten or more years of service;

(*b*) while employed becomes mentally or physically incapacitated to a degree that in the opinion of the Commission renders him incapable of further earning his livelihood;

(*c*) ceased to be employed before the end of the school year in which he would attain the age of sixty-five years; and

(*d*) makes application therefor within two years from the date upon which he was last employed,

is, subject to section 45, entitled to an annual disability allowance during his lifetime. R.S.O. 1960, c. 392, s. 29 (1); 1964, c. 115, s. 4; 1966, c. 152, s. 16 (1).

Amount

(2) The amount of such allowance shall be computed in the manner prescribed by subsections 1 and 4 of section 25, but the reduction prescribed by subsection 1 of section 25 does not apply to a teacher whose allowance commenced before the 1st day of January, 1971. 1966, c. 152, s. 16 (2).

Retirement on account of permanent disability as teacher, "CB" pension

30.—(1) Every person who,

(*a*) has credit in the Fund for ten or more years of service;

(*b*) while employed becomes mentally or physically incapacitated to a degree that in the opinion of the Commission renders him incapable of being further employed as a teacher or supervisory officer;

(*c*) ceased to be employed before the end of the school year in which he would attain the age of sixty-five years; and

(*d*) makes application therefor within two years from the date upon which he was last employed,

is, subject to section 45, entitled to an annual disability allowance during his lifetime. R.S.O. 1960, c. 392, s. 30 (1); 1964, c. 115, s. 5; 1966, c. 152, s. 17 (1).

Amount

(2) The amount of such allowance shall be computed in the manner prescribed by subsections 1 and 4 of section 25, but the reduction prescribed by subsection 1 of section 25 does not apply to a teacher whose allowance commenced before the 1st day of January, 1971.

Reduction

(3) The amount of the allowance computed under subsection 2 shall be further reduced or reduced, as the case may be, at the rate of 2½ per cent in respect of each year by which the age of the person is less than sixty-five at the beginning of the month next following the month in which he ceased to be employed, but the reductions shall not exceed 25 per cent in aggregate. 1966, c. 152, s. 17 (2).

Guarantee

31.—(1) The amount of the superannuation allowance or disability allowance of every person who was employed before the

1st day of January, 1966, shall be increased by the excess, if any, of,

(*a*) the amount of the allowance that would have been payable to him calculated under *The Teachers' Superannuation Act*, being chapter 392 of the Revised Statutes of Ontario, 1960, as it was on the 31st day of December, 1965,

over,

R.S.O. 1960, c. 392

(*b*) the amount of the allowance payable to him calculated under *The Teachers' Superannuation Act* as it was on the 1st day of January, 1966, together with the amount that he was entitled to receive under the *Canada Pension Plan* at the time he was first eligible to receive a benefit under that Plan.

1964-65, c. 51 (Can.)

Idem

(2) Nothing in subsection 1 entitles a person to an allowance under section 27 before attaining the age of fifty-five years. 1966, c. 152, s. 18.

Dependant's allowance, "D" pension

32.—(1) Where a male person who has credit in the Fund for ten or more years dies while employed or within two years after ceasing to be employed on account of ill-health, or within one year after ceasing to be employed for any reason other than ill-health during which year he manifested to the satisfaction of the Commission a *bona fide* intention of becoming employed as soon as possible, or where a male person who is in receipt of an allowance dies,

(*a*) leaving a widow, a dependant's allowance of an amount equal to,

(i) one-half of the allowance computed in the manner prescribed in subsections 1 and 4 of section 25, but based on the person's credit in the Fund at the time of his death, or

(ii) one-half of the allowance that the person was receiving at the date of his death, with the exception that, in the case of a person who was receiving an allowance under section 24 or 26 and had not attained the age of sixty-five years at the date of death, the allowance shall be one-half of the allowance that the person would have received at the beginning of the month following the month in which he attained the age of sixty-five years,

as the case may be, shall be paid to his widow during her lifetime or during her widowhood, and, where the widow dies or marries leaving a child or children who at the date of her death or marriage is or are under the age of eighteen years, a dependant's allowance of an amount equal to that paid to the widow shall be paid to the child or children until such age is attained; or

(*b*) leaving no widow but leaving a child or children under the age of eighteen years, a dependant's allowance of an amount equal to,

(i) one-half of the allowance computed in the manner prescribed in subsections 1 and 4 of section 25, but based on the person's credit in the Fund at the time of his death, or

(ii) one-half of the allowance that the person was receiving at the date of his death, with the exception that, in the case of a person who was receiving an allowance under section 24 or 26 and had not attained the age of sixty-five years at the date of death, the allowance shall be one-half of the allowance that the person would have received at the beginning of the month following the month in which he attained the age of sixty-five years,

as the case may be, shall be paid to such child or children until such age is attained.

Exceptions

(2) Subsection 1 does not apply to the widow of a person if she married him after the date of his retirement or to the children of any such widow.

Where dependant's allowance to be reduced

(3) Where the widow was at least ten years younger than her deceased husband, the payments under subsection 1 shall be reduced at the rate of 2½ per cent for each year that the widow was more than ten years younger than her husband. 1966, c. 152, s. 19 (1).

Where person is a female

(4) This section applies *mutatis mutandis* to the widower of a female person where,

(*a*) the widower was permanently incapacitated and wholly supported by the deceased wife at the time of her death or at the time of her cessation of employment, whichever was the earlier;

(*b*) she had been married to the widower for at least ten years at the time of her death or at the time of her cessation of employment, whichever was the earlier; and

(*c*) the child or children, if any, were fully supported by the person at the time of her death.

Children of deceased female teachers

(5) This section applies *mutatis mutandis* to the child or children of a female person,

(*a*) who was a widow at the time of her death; or

(*b*) who was married at the time of her death and who supported such child or children at the time of her death, where the widower is not entitled to an allowance under subsection 4.

Interpretation

(6) In this section, "child" includes an adopted child and a step-child and "children" has a corresponding meaning. R.S.O. 1960, c. 392, s. 32 (4-6).

Recomputation of "CE" to "C" pension for purposes of "D" pension

33. Where a person referred to in subclause ii of clause *a* of subclause ii of clause *b* of subsection 1 of section 32 was receiving a disability allowance under section 30 at the time of his death and provision was made for a special medical re-examination and no decision was made by the Commission on such re-examination, the Commission may, if it is of the opinion, having regard to the facts established at the time of his death, that the person should have been receiving a disability allowance under section 29, recompute his allowance under section 29 as of the date of his death for the purposes of a dependant's allowance under section 32. R.S.O. 1960, c. 392, s. 33.

Annuity in lieu of dependant's allowance

34.—(1) A person who has no one to whom section 32 can apply may, by a direction in writing signed by him and deposited with the Commission at least two years before he ceases to be employed, direct that the allowance to which he would be entitled be converted and paid as an annuity to him upon his retirement for his lifetime and, after his death, at one-half the rate to any dependant named in the direction.

Amount

(2) The amount of such annuity shall be the percentage indicated in the following tables of the amount of the allowance that would have been payable had no direction been given:

1. Where the dependant is younger than the person by the number of years indicated in the first column:

0	years	83.9%
1	"	82.9%
2	"	81.9%
3	"	80.9%
4	"	79.9%
5	"	78.9%
6	"	78.0%
7	"	77.1%
8	"	76.2%
9	"	75.3%
10	"	74.4%
11	"	73.6%
12	"	72.8%
13	"	72.0%
14	"	71.2%
15	"	70.5%

16	years	69.8%
17	"	69.2%
18	"	68.6%
19	"	68.0%
20	"	67.4%

2. Where the dependant is older than the person by the number of years indicated in the first column:

0	years	83.9%
1	"	84.9%
2	"	85.9%
3	"	86.8%
4	"	87.7%
5	"	88.6%
6	"	89.4%
7	"	90.2%
8	"	91.0%
9	"	91.7%
10	"	92.4%

1966, c. 152, s. 21.

Where direction not given

(3) A person who has not given a direction within the time prescribed in subsection 1 may, at a later date, but not after applying for an allowance, give such a direction upon passing a medical examination satisfactory to the Commission.

Revocation of direction

(4) A person who has given a direction under this section may revoke it at any time before he ceases to be employed.

Where direction not effective

(5) Where a person who has given a direction under this section dies,

(*a*) before applying for an allowance; or

(*b*) before he ceases to be employed,

the direction has no effect. R.S.O. 1960, c. 392, s. 34 (2-4), *amended*.

Application for allowance

35. An allowance under this Act shall be made only after the receipt by the Commission of an application therefor in the prescribed form. R.S.O. 1960, c. 392, s. 35.

Proof of disability

36. No application for a disability allowance shall be considered by the Commission until the Commission has obtained,

(*a*) the certificate of a legally qualified medical practitioner designated by the Commission, certifying that while employed the applicant became mentally or physically incapacitated and indicating the nature and degree of the incapacitation; and

(*b*) the report of the medical referee of the Commission containing such recommendations as he considers proper with regard to the granting of an allowance to the applicant. R.S.O. 1960, c. 392, s. 36.

Only one allowance

37. A person is not entitled to receive at any one time more than one allowance under this Act. R.S.O. 1960, c. 392, s. 37.

Allowances to be paid monthly

38. Every allowance is payable in monthly instalments. R.S.O. 1960, c. 392, s. 38; 1964, c. 115, s. 9.

Commencement of allowances

39.—(1) Every allowance shall commence as of the first day of the month next following the month during which the applicant ceased to be employed, except that a disability allowance shall not commence as of a date earlier than one year before the date upon which the completed application therefor reaches the Commission. R.S.O. 1960, c. 392, s. 39 (1).

Idem

(2) Where an employed person dies and a dependant's allowance becomes payable on his death, the allowance shall commence as of the day next following his death.

Idem

(3) Where a person who is in receipt of an allowance dies on or after the 1st day of April, 1964, and a dependant's allowance becomes payable on his death, the dependant's allowance shall commence as of the first day of the month next following the month in which he died. 1964, c. 115, s. 10.

Termination of allowances

40. Every allowance terminates as of the end of the month in which the event that terminates the allowance occurs. 1966, c. 152, s. 22.

Notice of re-employment

41.—(1) Where a person who is receiving a superannuation allowance becomes employed upon either a temporary or a permanent basis, he shall forthwith give notice in writing thereof to the Commission, and in default of so doing forfeits any further claim to any benefit under this Act unless the Commission otherwise directs.

Idem

(2) Where a person who is receiving a disability allowance becomes employed upon either a temporary or a permanent basis or becomes engaged as a teacher in a school or institution either in or outside Ontario upon either a temporary or a permanent basis, he shall forthwith give notice in writing thereof to the Commission, and in default of so doing forfeits any further claim to any benefit under this Act unless the Commission otherwise directs. R.S.O. 1960, c. 392, s. 40.

Effect of re-employment

42.—(1) Where a person who is receiving a superannuation allowance becomes employed,

(*a*) the allowance shall cease to be paid; and

(*b*) he shall contribute to the Fund during the period that he is employed.

Idem (2) Where a person who is receiving a disability allowance becomes employed,

(*a*) the allowance shall cease to be paid;

(*b*) he shall contribute to the Fund during the period that he is employed; and

(*c*) he shall repay to the Fund the amount of the allowance received by him, with accumulated interest.

Idem (3) Where a person who is receiving a disability allowance becomes engaged as a teacher in a school or institution either in or outside Ontario but is not employed within the meaning of clause *e* of section 1,

(*a*) the allowance shall cease to be paid; and

(*b*) he shall repay to the Fund the amount of the allowance received by him, with accumulated interest. R.S.O. 1960, c. 392, s. 41.

Resumption of superannuation allowance **43.** Where a person who ceased to receive a superannuation allowance because of re-employment again ceases to be employed,

(*a*) in the case of a person who has been re-employed for a period of less than two school years, payment of the allowance shall be resumed without any adjustment in the amount thereof, upon receipt by the Commission of a notice in writing of the cessation of employment;

(*b*) in the case of a person who has been so employed for a period of two or more school years, an application for an allowance shall be treated as an application for a new allowance; and

(*c*) in no case is he entitled to receive a disability allowance. R.S.O. 1960, c. 392, s. 42.

Recipient of disability allowance becoming employed **44.** Where a person who is receiving a disability allowance becomes employed or becomes engaged as a teacher in or outside Ontario,

(*a*) any application subsequently made for an allowance shall be treated as an application for a new allowance; and

(*b*) any allowance or refund that he may subsequently become entitled to receive shall be reduced actuarially by any amount that he has failed to repay to the Fund in accordance with section 42. R.S.O. 1960, c. 392, s. 43.

Evidence of mental or physical condition **45.**—(1) The Commission may at any time require a person who,

(a) is receiving a disability allowance under section 29 or 30; or

(b) being a widower, is receiving a dependant's allowance,

to furnish evidence, in such form as it directs, of his mental or physical condition. R.S.O. 1960, c. 392, s. 44 (1); 1966, c. 152, s. 23.

Failure to furnish evidence

(2) Where the person fails to furnish evidence that his mental or physical condition continues to be of a nature that would entitle him to receive an allowance under the section under which his allowance is paid, the Commission may direct that the allowance shall cease to be paid and that no further allowance shall be paid to him or that such other allowance as the Commission finds him to be entitled to shall be paid to him. R.S.O. 1960, c. 392, s. 44 (2).

Where payee incapable

46. Where the Commission is satisfied that a person to whom an allowance is payable under this Act is incapable of managing his own affairs, the Commission may direct that any cheque for moneys payable to him be made payable to a member of his family or household, and in that case the endorsement of the cheque by the person so designated by the Commission is a sufficient discharge of the Fund to the extent of such payment. R.S.O. 1960, c. 392, s. 45.

No attachment, etc.

47. The interest of a person in the Fund and in an allowance under this Act is not subject to garnishment, attachment, seizure or other process of law and is not assignable. R.S.O. 1960, c. 392, s. 46.

Refunds, application for

48.—(1) A refund under this Act shall be made only after the receipt by the Commission of an application therefor in the prescribed form.

Manner of payment

(2) Every refund shall be paid in a lump sum unless the person to whom it is payable, or, where he has died, his personal representative, states in the application that he wishes the amount to be paid in instalments, in which case the amount shall be paid in three equal instalments without additional interest on the days fixed by the Commission for the purpose.

Where no personal representative

(3) Where the person to whom a refund is payable dies and has no personal representative, the refund may be paid to such person as the Commission designates. R.S.O. 1960, c. 392, s. 47.

Refunds

49.—(1) A person who,

(a) has credit in the Fund for less than ten years of service and who ceases to be employed; or

(b) has credit in the Fund for ten or more years of service

and who ceases to be employed before the calendar year in which he attained forty-five years of age,

is entitled to a refund of an amount equal to the whole of his contributions to the Fund with interest on each amount contributed for the period of time it was in the Fund at the rate of 3 per cent per year compounded half-yearly, but no such refund shall be made until three months after the day upon which the person ceased to be employed.

Idem

(2) Notwithstanding subsection 1, where a person has withdrawn his contributions from the Fund and subsequently was employed and again ceased to be employed, no refund under subsection 1 shall be made until twelve months have elapsed after the day upon which the person again ceased to be employed.

Idem

(3) A person who has credit in the Fund for ten or more years of service and who was employed for at least twenty days in the calendar year in which he attained forty-five years of age is entitled to a refund of an amount equal to the whole of his contributions to the Fund in respect of service before the 1st day of January, 1965, with interest on each amount contributed for the period of time it was in the Fund at the rate of 3 per cent per year compounded half-yearly, but no such refund shall be made until three months after the day upon which the person ceased to be employed. 1968, c. 133, s. 6, *amended*.

Repayment of refunds on re-employment

50.—(1) A person who has withdrawn his contributions from the Fund and subsequently is employed for twenty or more days in a school year and desires to be reinstated in the Fund in respect of his former period of employment may be so reinstated by paying into the Fund an amount equal to the total of the contributions previously withdrawn and the interest thereon, if any, paid to him at the time of the withdrawal together with interest on such amount from the date of the withdrawal until the completion of the repayment, and any disability or superannuation allowance or other payment out of the Fund to which he may become entitled during the period of repayment shall be reduced actuarially during his lifetime by the amount withdrawn and not repaid. 1964, c. 115, s. 13 (1); 1966, c. 152, s. 26 (1).

Repayment prohibited

(2) Notwithstanding subsection 1, a person who has elected to have a refund rather than an allowance under section 28 is not entitled to be reinstated in the Fund in respect of the period of employment for which the refund was made. 1966, c. 152, s. 26 (2).

Eligibility for "C", "CB" or "D" pension

(3) No person who has withdrawn his contributions from the Fund and is subsequently employed and elects to be reinstated in the Fund under subsection 1 is eligible for a disability allowance under section 29 or 30 nor are his dependants eligible for a dependant's allowance under section 32 until he has been em-

ployed for two school years after his return to employment. R.S.O. 1960, c. 392, s. 50 (3); 1964, c. 115, s. 13 (2).

Return of superannuate to employment

51. Where a person who is in receipt of a superannuation allowance becomes employed, no refund in respect of his contributions made after his return to employment shall be made except as provided in section 53. 1960-61, c. 98, s. 2.

Death before receiving allowance

52. Where a person who is not in receipt of an allowance dies and no dependant's allowance becomes payable on his death, his personal representative is entitled to a refund of an amount equal to the amounts contributed by him to the Fund with interest on each amount for the period of time it was in the Fund to the date of death at the rate of 3 per cent per year compounded half-yearly. R.S.O. 1960, c. 392, s. 54; 1966, c. 152, s. 29, *amended*.

Death after becoming entitled to allowance

53. Where a person who is in receipt of an allowance dies and no dependant's allowance becomes payable on his death, his personal representative is entitled to a refund of an amount equal to the amounts contributed by the person to the Fund with interest on each amount for the period of time it was in the Fund to the date of death at the rate of 3 per cent per year compounded half-yearly, reduced by an amount equal to the amounts paid out of the Fund to the person with interest to the date of death at the rate of 3 per cent per year compounded half-yearly. R.S.O. 1960, c. 392, s. 55, *amended*.

Refund where disability allowance ceased to be paid

54. A person whose allowance ceased to be paid under section 45, other than a widower under section 32, is entitled to a refund out of the Fund of an amount equal to the amounts contributed by him to the Fund with interest on each amount for the period of time it was in the Fund at the rate of 3 per cent per year compounded half-yearly, reduced by an amount equal to the amounts paid out of the Fund to him with interest at the rate of 3 per cent per year compounded half-yearly. R.S.O. 1960, c. 392, s. 56, *amended*.

Refund where dependant's allowance less than contributions

55. Where the payments made under section 32, or the amount of the allowance and any payments made under section 32, as the case may be, with interest at 3 per cent per year compounded half-yearly to the date of cessation of the payments, are less than the amount of the contributions of the person, with interest on each amount for the period of time it was in the Fund at 3 per cent per year compounded half-yearly to the same date, the amount of the difference shall be paid to his personal representative. R.S.O. 1960, c. 392, s. 57, *amended*.

Transfers, from Fund to Public Service Superannuation Fund R.S.O. 1970, c. 387

56.—(1) A person who elects under *The Public Service Superannuation Act* to become a contributor to the Public Service Superannuation Fund is entitled to,

(*a*) a refund under section 48 for his non-continuous service as determined by the Public Service Superannuation Board; and

(*b*) a transfer to the Public Service Superannuation Fund of his contributions, the Government's contributions with respect thereto and interest on both such contributions for his continuous service as determined by the Public Service Superannuation Board.

Idem, from Fund to approved fund

(2) Where a person ceases to be employed and becomes a contributor to a fund approved by the Commission, a sum of money equal to his contributions with interest at 3 per cent compounded half-yearly may, upon his request, be paid out of the Fund into such other fund.

Idem, from Public Service Superannuation Fund to Fund

(3) Where a person's contributions in the Public Service Superannuation Fund are transferred under *The Public Service Superannuation Act* to the Fund, he is entitled to credit in the Fund for a period equal to the period for which he made contributions to the Public Service Superannuation Fund.

Idem, teachers

(4) Where a person's contributions to the Public Service Superannuation Fund are not transferred under *The Public Service Superannuation Act* to the Fund and he was engaged in teaching while he was a civil servant, he is entitled to credit in the Fund for a period equal to the period for which he made contributions to the Public Service Superannuation Fund upon payment into the Fund of an amount equal to the teacher contribution applicable at the time of such service, the Government's contribution with respect thereto and interest on both such contributions. 1966, c. 152, s. 25.

Reciprocal arrangements

57. Where a person has been engaged as a teacher in Ontario and in another part of Canada or the Commonwealth for a period of time which, if the whole period had been served in Ontario would have entitled him to a superannuation allowance under this Act, and if reciprocal arrangements satisfactory to the Lieutenant Governor in Council are made by the authority having jurisdiction in that other part, the Lieutenant Governor in Council may make regulations providing for the payment to such person of a superannuation allowance under this Act, which shall bear the same ratio to the allowance to which he would have been entitled if all of his teaching had been done in Ontario, at the rates of salary he did in fact receive, as the number of his years of teaching in Ontario bears to the total number of his years of teaching. R.S.O. 1960, c. 392, s. 59.

Transfer agreements

58. Subject to the approval of the Lieutenant Governor in Council, the Commission may enter into agreements with the authorized representatives of any other pension fund respecting the terms and conditions upon which persons may transfer to or

from the Fund from or to the other pension fund. 1968-69, c. 126, s. 6.

Regulations

59. The Lieutenant Governor in Council may make regulations,

1. designating schools or classes within the meaning of subclause ii of clause *e* of section 1 or within the meaning of subclause iv of clause *e* of section 1;
2. designating associations or bodies of teachers within the meaning of subclause ix of clause *e* of section 1;
3. designating associations or bodies of boards or of trustees and ratepayers within the meaning of subclause x of clause *e* of section 1;
4. designating capacities within the meaning of subclause xi of clause *e* of section 1; R.S.O. 1960, c. 392, s. 58, pars. 1-4.
5. designating capacities and organizations for the purpose of subclause xii of clause *e* of section 1; 1966, c. 152, s. 30 (1).
6. designating teacher's organizations for the purpose of clause *b* of subsection 2 of section 2;
7. prescribing the powers and duties of the officers of the Commission, or any of them;
8. prescribing the manner in which the nomination and election of the elected members of the Commission shall be conducted;
9. prescribing the form and manner in which and by whom the accounts and records of the Commission shall be kept;
10. prescribing the terms and conditions and times that persons may contribute to the Fund under subsection 5 of section 21; R.S.O. 1960, c. 392, s. 58, pars. 5-9.
11. prescribing the form of application for an allowance or refund and the information and material to be furnished therewith, including the form thereof, and prescribing other information and material that shall be taken into consideration by the Commission in considering applications for allowances or refunds;
12. prescribing the procedure to be followed by the Commission in considering and disposing of applications for allowances or refunds;
13. requiring persons who are contributors to the Fund or persons who are receiving allowances from the Fund,

and boards, to furnish information to or for the use of the Commission and prescribing the form thereof;

14. authorizing the Commission to require persons who are contributors to the Fund or persons who are receiving allowances from the Fund, and boards, to furnish information to or for the use of the Commission and prescribing the form thereof; R.S.O. 1960, c. 392, s. 58, pars. 10-13.

15. governing persons who have been absent from duty,
    (*a*) because of ill-health,
    (*b*) because of pregnancy,
    (*c*) because of duties as jurors,
    (*d*) because of duties as members of the Legislative Assembly of Ontario or of the House of Commons of Canada,
    (*e*) in order to take a course of study approved by the Commission,
    (*f*) for a period of sabbatical leave under the by-law of the employing board, or
    (*g*) in order to travel, where the purpose of the travel is approved by the Commission,

    and providing for and regulating the payment of contributions to the Fund in respect of such periods of absence;

16. governing persons who ceased to be employed,
    (*a*) because of ill-health,
    (*b*) because of pregnancy,
    (*c*) because of duties as members of the Legislative Assembly of Ontario or the House of Commons of Canada,
    (*d*) in order to take a course of study approved by the Commission, or
    (*e*) in order to travel, where the purpose of the travel is approved by the Commission,

    and who are again employed and providing for and regulating the payment of contributions to the Fund in respect of such periods of unemployment;

17. prescribing the conditions under which credit may be given under the Act for teaching or inspectoral services performed,
    (*a*) in any part of Canada or the Commonwealth, other than Ontario, or
    (*b*) in a school maintained by the Government of Canada for children of members of the Canadian

Armed Forces, for Indians, or for inmates of penal institutions,

where the person is subsequently employed within the meaning of this Act, and prescribing the amount of such credit;

18. prescribing the conditions under which credit may be given under the Act for any period of teaching or supervisory services performed in a foreign country as the Commission may approve, and prescribing the amount of such credit;

19. prescribing the conditions under which credit for past teaching service in a designated private school may be given under the Act to persons who contribute to the Fund under any provision of the Act other than section 17, and prescribing the method of determining the period for which such credit may be given and the amount thereof; R.S.O. 1960, c. 392, s. 58, pars. 17-22, *amended*.

20. providing for and regulating the transfer from the Fund into any other fund established under the authority of the Parliament of Canada or the legislature of any province of Canada of an amount equal to a teacher's contributions, government contributions in respect thereof, and accumulated interest thereon, or equal to any one or more of them; 1966, c. 152, s. 30 (3).

21. prescribing the conditions under which credit in the Fund may be given where moneys are transferred to the Fund from the Public Service Superannuation Fund and prescribing the method of determining the period for which credit shall be given; R.S.O. 1960, c. 392, s. 58, par. 24; 1966, c. 152, s. 30 (4).

22. defining the meaning of "part-time employment" for the purpose of the regulations and prescribing the method of determining the period for which credit shall be given for part-time employment;

23. prescribing special provisions governing the conditions under which persons in receipt of allowances may become employed during a period that is declared by the regulations to be a period during which there is urgent need for their services and providing for reductions in the allowances paid to them; R.S.O. 1960, c. 392, s. 58, pars. 25, 26.

24. defining active service, providing for credits under this Act in respect of active service, and prescribing the terms and conditions upon which such credits may be

given, the method of determining the periods for which such credits may be given, and the amount thereof; 1961-62, c. 137, s. 3, *amended*.

25. respecting persons employed in schools whose board or teachers, or both, are reported by the Minister to the Commission as having failed to comply with any Acts or regulations administered by the Department including,
    (*a*) the terms and conditions upon which contributions shall be made to the Fund, and
    (*b*) the credit to be given to such persons in respect of the period of non-compliance;

26. prescribing the conditions under which a refund may be made to a person who establishes credit in the Fund under the regulations or who pays money into the Fund under the regulations for the purpose of establishing credit, and prescribing the method of determining the amount of such refund;

27. prescribing forms and providing for their use;

28. respecting any right or class thereof that is deemed to be prejudicially affected by the repeal of a predecessor of this Act and the substitution of another Act for such Act;

29. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 392, s. 58, pars. 28-32, *amended*.

CHAPTER 456

The Teaching Profession Act

Interpretation

1. In this Act,

(*a*) "Board of Governors" means the Board of Governors of the Federation;

(*b*) "board of trustees" means a board of education, board of secondary school trustees, board of public school trustees, board of separate school trustees or divisional board of education;

(*c*) "Department" means the Department of Education;

(*d*) "executive" means the executive of the Federation;

(*e*) "Federation" means The Ontario Teachers' Federation;

(*f*) "member" means a member of the Federation;

(*g*) "Minister" means the Minister of Education;

(*h*) "regulations" means the regulations made under this Act;

(*i*) "teacher" means a person who is legally qualified to teach in an elementary or secondary school and is under contract in accordance with Parts II and III of *The Schools Administration Act* but does not include a supervisory officer, an instructor in a teacher-training institution or a person employed to teach in a school for a period not exceeding one month. R.S.O. 1960, c. 393, s. 1; 1967, c. 100, s. 1; 1968, c. 134, s. 1. R.S.O. 1970, c. 424

Body corporate

2. The federation of teachers known as The Ontario Teachers' Federation is continued as a body corporate. R.S.O. 1960, c. 393, s. 2.

Objects

3. The objects of the Federation are,

(*a*) to promote and advance the cause of education;

(*b*) to raise the status of the teaching profession;

(*c*) to promote and advance the interests of teachers and to secure conditions that will make possible the best professional service;

(*d*) to arouse and increase public interest in educational affairs; and

(*e*) to co-operate with other teachers' organizations throughout the world having the same or like objects. R.S.O. 1960, c. 393, s. 3.

Membership in Federation

4.—(1) Every teacher is a member of the Federation except,

(*a*) a teacher who has withdrawn from membership under subsection 1 or 2 of section 4 of *The Teaching Profession Act, 1944*;

1944, c. 64

(*b*) a teacher who,

(i) at any time during World War II was a member of Her Majesty's forces or engaged on special war service designated by the regulations, and

(ii) at the time of entering the forces or becoming engaged on such service was a teacher or was training to be a teacher at a provincial normal school or the Ontario College of Education, and

(iii) notifies the Minister and the secretary of the Board of Governors of his withdrawal from membership by registered letter posted not later than six months after he ceases to be in the forces or on special war service. R.S.O. 1960, c. 393, s. 4 (1).

Associate members

(2) Every student in a teachers' college or in a college of education in Ontario is an associate member of the Federation. R.S.O. 1960, c. 393, s. 4 (2); 1968, c. 134, s. 2.

Persons receiving pension under R.S.O. 1970, c. 455

(3) Every person who was a member of the Federation upon retirement and who is receiving a pension or an allowance under *The Teachers' Superannuation Act* may, on request, be an associate member of the Federation. 1967, c. 100, s. 2.

Board of Governors

5.—(1) There shall be a Board of Governors of the Federation, which shall be composed of fifty members consisting of the immediate past president, the president, the first vice-president, the second vice-president and the secretary-treasurer of each of, The Ontario Secondary School Teachers' Federation, The Federation of Women Teachers' Associations of Ontario, The Ontario Public School Men Teachers' Federation, L'Association des Enseignants Franco-Ontariens and The Ontario English Catholic Teachers' Association, and five representatives of each of such federations or associations, who shall be elected annually at the annual meeting of the federation or association from among its members. 1968-69, c. 127, s. 1.

Term of office

(2) The members of the Board of Governors shall take office at the conclusion of the annual meeting of the Federation and shall hold office until their successors take office.

Vacancies

(3) If a vacancy occurs on the Board of Governors, it shall be filled by the executive of the affiliated body that the person who

vacated the office represented and the person so named to fill the vacancy shall hold office for the remainder of the term of the person who vacated the office. R.S.O. 1960, c. 393, s. 5 (2-3).

Executive

6.—(1) There shall be an executive of the Federation, which shall be composed of eleven members as follows:

(*a*) the immediate past president, the president, the first vice-president, the second vice-president and the third vice-president of the Federation;

(*b*) one representative of The Ontario Secondary School Teachers' Federation, one representative of The Federation of Women Teachers' Associations of Ontario, one representative of The Ontario Public School Men Teachers' Federation, one representative of L'Association des Enseignants Franco-Ontariens and one representative of The Ontario English Catholic Teachers' Association, who shall be elected annually at the annual meeting of the Board of Governors from among its members; and

(*c*) the secretary-treasurer of the Federation. 1968-69, c. 127, s. 2.

Term of office

(2) The members of the executive shall take office at the conclusion of the annual meeting of the Federation and shall hold office until their successors take office.

Vacancies

(3) If a vacancy occurs on the executive, it may be filled by the Board of Governors from among its members who represent the affiliated body that the person who vacated the office represented, and the person so named shall hold office for the remainder of the term of the person who vacated the office. R.S.O. 1960, c. 393, s. 6 (2, 3).

President and vice-presidents

7. There shall be a president, a first vice-president, a second vice-president and a third vice-president of the Federation who shall be elected annually at the annual meeting of the Board of Governors from among its members in such a manner that the offices of the immediate past president, president, first vice-president, second vice-president and third vice-president shall represent each of the affiliated bodies. R.S.O. 1960, c. 393, s. 7.

Secretary-treasurer

8. There shall be a secretary-treasurer of the Federation appointed by the Board of Governors who may be a member of the Board of Governors and who shall receive such remuneration as may be fixed by the Board of Governors. R.S.O. 1960, c. 393, s. 8.

Functions of executive

9. The executive is responsible for carrying on the business of the Federation and may,

(*a*) subject to the approval of the Minister, acquire and hold in the name of the Federation such real and personal property as may be necessary for the purposes of the Federation and may alienate, mortgage, lease or otherwise dispose of such property as occasion may require;

(*b*) invest the funds of the Federation in any securities in which a trustee is authorized to invest money in his hands under *The Trustee Act*; R.S.O. 1970, c. 470

(*c*) make such grants as it considers advisable to organizations having the same or like objects as the Federation. R.S.O. 1960, c. 393, s. 9.

Conferences

10. In the interests of the advancement of education and the improvement of teaching conditions in Ontario, the Board of Governors shall meet annually and confer with the Minister and the senior officials of the Department on matters touching and concerning the objects of the Federation, and the Board of Governors shall at such meeting and may at any other time make such representations and recommendations either of a general nature or which relate to any particular school, teacher or matter as it considers advisable and as are in keeping with the objects of the Federation. R.S.O. 1960, c. 393, s. 10.

Collection of fees

11. The prescribed membership fee shall be deducted by the board of trustees from the salary of each teacher,

(*a*) where a single deduction is made, once in the month of November, or in the first full month thereafter in which the teacher begins a term of employment; or

(*b*) where instalment deductions are made,

(i) where a teacher is employed for ten months or more, in not fewer than ten instalments, and

(ii) where a teacher is employed for fewer than ten months, in fewer than ten instalments,

and shall be forwarded to the treasurer of the Federation. 1968, c. 134, s. 3.

Regulations

12. Subject to the approval of the Lieutenant Governor in Council, the Board of Governors may make regulations,

(*a*) prescribing a code of ethics for teachers;

(*b*) prescribing the fees to be paid by members of the Federation and the dates by which they are to be forwarded to the treasurer of the Federation;

(*c*) providing for voluntary membership in the Federation of persons who are not members thereof and prescribing the duties, responsibilities and privileges of voluntary members;

(*d*) prescribing the duties, responsibilities and privileges of associate members;

(*e*) providing for the suspension and expulsion of members from the Federation and other disciplinary measures;

(*f*) designating the services and organizations that shall be deemed to be special war services for the purposes of clause *b* of subsection 1 of section 4;

(*g*) providing for the holding of meetings of the Board of Governors and of the executive and prescribing the manner of calling and the notice to be given in respect of such meetings;

(*h*) prescribing the procedure to be followed at meetings of the Board of Governors and of the executive;

(*i*) providing for the payment of necessary expenses to the members of the Board of Governors and the executive;

(*j*) conferring powers upon or extending or restricting the powers of and prescribing the duties of the Board of Governors and of the executive;

(*k*) providing for the appointment of standing and special committees;

(*l*) providing for the establishment of branches of the Federation or of the recognition by the Federation of local bodies, groups or associations of teachers which shall be affiliated with the Federation. R.S.O. 1960, c. 393, s. 12; 1968, c. 134, s. 4.

CHAPTER 457

The Telephone Act

1. In this Act, Interpretation

(*a*) "Board" means the Ontario Municipal Board;

(*b*) "Commission" means the Ontario Telephone Service Commission;

(*c*) "commissioners" means the persons elected by the subscribers of a municipal telephone system for the control and management of the system;

(*d*) "initiating municipality" means a municipality that has established a municipal telephone system under this Act or a predecessor of this Act;

(*e*) "municipal telephone system" means a telephone system, other than a public utility, established by by-law of a municipality under a predecessor of this Act;

(*f*) "plant" means the buildings, works, apparatus and equipment, including vehicles, used in the operation of a telephone system;

(*g*) "rate" means any rental or charge for supplying telephone exchange service and all services associated therewith;

(*h*) "regulations" means the regulations made under this Act;

(*i*) "subscriber", in respect of a municipal telephone system, means a landowner who has signed a petition to the council of a municipality praying for the establishment or extension of a telephone system that is afterwards established or extended pursuant to the petition or upon whose property an annual rate is or may be levied and collected for the purpose of paying the cost of establishing and maintaining the system or the extension or any reconstruction, replacement or alteration of the system or any part thereof, and also means a person who, being a subscriber as defined above, has fully paid all annual rates in respect of the establishment of the system or of its extension and the cost of maintenance during the period for which debentures have been issued to pay the cost of the establishment or extension and who continues thereafter to take telephone service from the system on the basis of paying such charges therefor as are approved;

(*j*) "toll" means any charge, other than a rate, for the transmission of telephone messages. R.S.O. 1960, c. 394, s. 1.

Telephone Service Commission

2.—(1) The body corporate known as the "Ontario Telephone Service Commission" is continued. R.S.O. 1960, c. 394, s. 2 (1), *amended*.

Membership

(2) The Commission shall consist of three or more members appointed by the Lieutenant Governor in Council.

Chairman and vice-chairman

(3) The Lieutenant Governor in Council may designate one of the members as chairman and one of them as vice-chairman.

Remuneration

(4) The members shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. R.S.O. 1960, c. 394, s. 2 (2-4).

Quorum

(5) Two members constitute a quorum. 1962-63, c. 139, s. 1.

When vice-chairman may act

3.—(1) In the absence of the chairman or in the case of his inability to act or if there is a vacancy in the office, the vice-chairman may act as and has all the powers of the chairman, including the power to complete any unfinished matter.

Presumption where vice-chairman has acted

(2) Where the vice-chairman has acted in place of the chairman, it shall be presumed conclusively that he so acted in the absence or disability or vacancy in the office of the chairman. R.S.O. 1960, c. 394, s. 3.

Staff

4. The Lieutenant Governor in Council may appoint a secretary and such other officers, clerks and employees as may be necessary for the conduct of the affairs of the Commission. R.S.O. 1960, c. 394, s. 4.

Administration costs

5. The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1960, c. 394, s. 5.

Jurisdiction of Commission

6.—(1) The Commission has jurisdiction and power to hear and determine all applications made, proceedings instituted and matters brought before it under this Act and, for such purposes, to make such orders, rules and regulations, to give such directions, to issue such certificates and otherwise to do and perform all acts, matters, deeds and things as it considers necessary.

Powers of investigation R.S.O. 1970, c. 379

(2) In the exercise of its powers under subsection 1, the Commission has all the powers that may be conferred upon a Commissioner under *The Public Inquiries Act*.

Witness fees

(3) Every person summoned to attend before the Commission shall, in the discretion of the Commission, receive the like fees and

allowances for so doing as if summoned to attend before the Supreme Court. R.S.O. 1960, c. 394, s. 6.

Reference to a member

7. The chairman may authorize any one of the members of the Commission to report to the Commission upon any question or matter arising in connection with the business of the Commission and, when so authorized, such member has all the powers of the Commission for the purpose of taking evidence and acquiring information for the purposes of the report and, upon the report being made to the Commission, it may be adopted as the order of the Commission or otherwise dealt with as the Commission considers proper. R.S.O. 1960, c. 394, s. 7.

Signing of orders, etc.

8. All orders and other documents made or issued by the Commission are effective if signed by the chairman or vice-chairman. R.S.O. 1960, c. 394, s. 8.

Sittings

9.—(1) The Commission shall sit at such times and places as the chairman from time to time designates and shall conduct its proceedings in such manner as seems to it most convenient for the speedy and effectual dispatch of its duties.

Idem

(2) The sittings of the Commission may be either private or open to the public, but any complaint made to the Commission shall, upon the application of any party thereto, be heard publicly.

Use of court house

(3) Where the sittings of the Commission are appointed to be held in a municipality in which a court house is situate, the Commission and its members have in all respects the same rights as a judge of the Supreme Court in respect of the use of the court house, or any part thereof, and of other buildings and apartments set aside in the municipality for the administration of justice.

Use of town hall

(4) Where the sittings of the Commission are appointed to be held in a municipality in which there is a municipal hall but no court house, the municipality shall, upon request, allow such sittings to be held in such hall and shall make all arrangements necessary and suitable for the purpose. R.S.O. 1960, c. 394, s. 9.

Variation of orders, etc.

10. The Commission may rehear any application and may review, amend or revoke its decisions, orders, directions, consents or approvals and may within its jurisdiction review, amend or revoke the decisions, orders, directions, rules or approvals made by the Commission or any predecessor of the Commission. R.S.O. 1960, c. 394, s. 10.

Determination of disputes

11. The Commission has exclusive jurisdiction to hear and determine any differences that arise between two or more telephone systems or municipalities in respect of the establishment, extension, operation or maintenance of a telephone system or in

respect of any act, matter or thing required to be done by them or any of them under this Act, and to make such orders in respect thereof as it considers proper. R.S.O. 1960, c. 394, s. 11.

Inquiry as to whether rates sufficient

12. The Commission may from time to time inquire whether the rates and tolls charged for the service rendered by a telephone system, other than a municipal telephone system, are sufficient to pay the funded debt and interest accruing thereon and the cost of operation and maintenance and a reasonable return on capital investment, or whether greater rates are charged than are sufficient for such purposes, and the Commission may order such revision or adjustment of the rates or tolls as it considers proper. R.S.O. 1960, c. 394, s. 12.

Examination of and report upon telephone system

13.—(1) The Commission, whenever it appears to be expedient or necessary for the purpose of carrying into effect any of the provisions of this Act or upon any application, complaint or dispute before the Commission or in connection with any matter or thing over which the Commission has jurisdiction, may direct any person to examine and report upon the construction, operation or management of a telephone system, and for that purpose such person may at all reasonable hours enter any building, office or other premises belonging to or connected with the system and examine all books, accounts, tariffs, rates, balance sheets and other papers, records and documents relating to the system and examine the switchboards, instruments, toll stations and all other property that belongs to or forms a part of the system.

Powers of examiner R.S.O. 1970, c. 323

(2) The person directed to make such examination and report has and may exercise any of the powers set out in section 52 of *The Ontario Municipal Board Act*.

Implementation of report of examiner

(3) Upon receiving the report of the person directed to make examination and report, the Commission may adopt the report in whole or in part and may thereupon make such order in respect of the subject-matter of the report as it considers proper. R.S.O. 1960, c. 394, s. 13.

Powers of Commission to hear complaints

14. The Commission may inquire into, hear and determine an application by or on behalf of any person,

(*a*) complaining that a telephone system has failed to do any act, matter or any thing required to be done by it under this Act or the regulations or under a predecessor of this Act or that a system has done or is doing anything contrary to this Act or the regulations;

(*b*) complaining that a system is charging rates or tolls in excess of those approved by the Commission;

(*c*) requesting the Commission to make any order or give any direction or approval that by law it is authorized to make or give. R.S.O. 1960, c. 394, s. 14.

15.—(1) The Commission of its own motion may order any person, system or municipality to do forthwith or within any specified time and in the manner directed by the Commission anything that any person, system or municipality is or may be required to do under this Act or the regulations, and the Commission may, by its order, forbid the doing or continuing of anything that is in contravention of this Act or the regulations. R.S.O. 1960, c. 394, s. 15. Powers of Commission exercisable on its own motion

(2) Every person, system or municipality that refuses or neglects to comply with an order of the Commission made under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $100. 1962-63, c. 139, s. 2. Penalty for refusal or neglect to obey order of Commission

16. The Commission may approve of forms of by-laws, notices and other proceedings to be passed, given or taken under and in carrying out the provisions of this Act, and every by-law, notice or other proceeding that is in substantial conformity with the form so approved is not open to objection on the ground that it is not in accordance with the provisions of this Act applicable thereto. R.S.O. 1960, c. 394, s. 16. Commission may approve of forms, etc.

17.—(1) The Commission may, of its own motion or upon the application of any party to proceedings before the Commission and upon such security being given as it may direct, state a case in writing for the opinion of the Court of Appeal upon any question that, in the opinion of the Commission, is a question of law. Stated case

(2) The Court of Appeal shall hear and determine the stated case and remit it to the Commission with the opinion of the court thereon. R.S.O. 1960, c. 394, s. 17. Idem

18. The Lieutenant Governor in Council may at any time upon petition of any party, all parties first having been heard, vary or rescind any order or decision of the Commission whether the order or decision was made *inter partes* or otherwise, and any order that the Lieutenant Governor in Council makes with respect thereto is binding upon the Commission and all parties. R.S.O. 1960, c. 394, s. 18. Rescission or orders by Lieutenant Governor in Council

19.—(1) An appeal lies from the Commission to the Court of Appeal upon any question of jurisdiction or upon any question of law, but no such appeal lies unless leave to appeal is obtained from the court within one month of the making of the order or decision sought to be appealed from or within such further time as the court under the special circumstances of the case allows after notice to the opposite party, if any, stating the grounds of appeal. Appeals of question of jurisdiction and law

(2) Upon such leave being obtained, the Registrar of the Court of Appeal shall set the appeal down for hearing at the next sittings of the court and the party appealing shall, within ten Notice of appeal

days, give to the parties affected by the appeal, or to the solicitors by whom such parties were represented before the Commission, and to the Commission notice in writing that the case has been so set down and the appeal shall be heard and disposed of by the court as speedily as practicable.

Opinion of court

(3) On the hearing of an appeal under this section, the court may draw such inferences as are not inconsistent with the facts expressly found by the Commission and necessary for determining the question of jurisdiction or law, as the case may be, and shall specify its opinion to the Commission and the Commission shall make an order in accordance with such opinion.

Commission may be heard

(4) The Commission is entitled to be heard by counsel or otherwise upon the argument of any such appeal.

Commission not liable for costs

(5) The Commission or any member thereof is not liable for costs in connection with any appeal or application for leave to appeal under this section. R.S.O. 1960, c. 394, s. 19.

Orders of Commission final and binding

20. Except as provided in sections 18 and 19 every order and decision of the Commission is final and binding. R.S.O. 1960, c. 394, s. 20.

Orders may be general or particular

21. An order of the Commission may be general or particular in its application territorially or as to time or otherwise. R.S.O. 1960, c. 394, s. 21.

R.S.O. 1970, c. 410, not to apply

22. *The Regulations Act* does not apply to any order, regulation or by-law made under the authority of this Act. R.S.O. 1960, c. 394, s. 22.

Costs of proceedings before Commission

23. The costs of and incidental to any proceedings before the Commission are in the discretion of the Commission, and the Commission may order by whom and to whom any costs are to be paid. R.S.O. 1960, c. 394, s. 23.

Annual report

24.—(1) The Commission shall, after the close of each calendar year, make an annual report upon the affairs of the Commission to the member of the Executive Council to whom the administration of this Act is assigned, who shall file it with the Provincial Secretary.

Idem

(2) The Provincial Secretary shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1960, c. 394, s. 24.

Act not to affect H.E.P.C.

25. Nothing in this Act confers upon the Commission any jurisdiction as to matters that are under *The Power Commission*

Act or that otherwise are within the exclusive jurisdiction of The Hydro-Electric Power Commission of Ontario. R.S.O. 1960, c. 394, s. 25. R.S.O. 1970, c. 354

26. The Commission, subject to the approval of the Lieutenant Governor in Council, may make regulations, Regulations

(*a*) to regulate and control the business practices and accounting practices of telephone systems;

(*b*) prescribing the forms of accounts, books of accounts and records to be kept by telephone systems;

(*c*) to regulate and control the type of construction of plants of telephone systems;

(*d*) to regulate and control the maintenance and operating practices of telephone systems;

(*e*) prescribing rules of practice and procedure applicable to proceedings before the Commission;

(*f*) prescribing fees applicable to proceedings before the Commission and for certified copies of orders and other documents made or issued by the Commission;

(*g*) prescribing the form of and the particulars to be contained in tariffs of rates and tolls and the manner and form in which tariffs of rates and tolls shall be published and kept open for public inspection;

(*h*) prescribing the form and the particulars to be contained in the annual returns to be made by telephone systems to the Commission;

(*i*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 394, s. 26.

27. Any municipality may establish and carry on a telephone system as a public utility and for the purposes of such system may construct, maintain and operate in, over, under, upon or across the highways, lanes, parks, squares and other public ways, passages and places in the municipality, or in, over, under, upon or across the land of any person therein, an underground or overhead or partly underground and partly overhead telephone plant and do all things necessary or convenient for the purpose including the issue of debentures to meet the cost of the same. R.S.O. 1960, c. 394, s. 27. Establishment and operation of telephone system as public utility

28. A municipality may, for the purpose of establishing or carrying on a telephone system as a public utility, acquire by purchase or lease or, subject to sections 35 to 86 in that behalf, may expropriate any system in the municipality. R.S.O. 1960, c. 394, s. 28. Acquisition of existing systems

Debentures of acquired system to be paid by municipality

29. Where a municipal system is acquired by a municipality under section 28, any debentures theretofore issued in respect of the municipal telephone system and then outstanding and unpaid cease to be a charge upon the lands of the respective subscribers or any of them and the debentures as they mature and fall due and the interest upon them become a first charge against the revenues of the system, and, if such revenues are insufficient in any one or more years, they shall be met and paid by a special rate to be imposed by the municipality upon all rateable property in the municipality. R.S.O. 1960, c. 394, s. 29.

Debentures, assent of electors

30. No by-law authorizing the issue of debentures and no by-law authorizing the assumption of any outstanding debentures issued in respect of a municipal telephone system may be passed by the council of a municipality in the exercise of the powers conferred by section 27, 28 or 29 until the approval of the Board has been first obtained and such a by-law is not valid until it has received the assent of the electors qualified to vote on money by-laws under *The Municipal Act*. R.S.O. 1960, c. 394, s. 30.

R.S.O. 1970, c. 284

Right of passage

31. Where parts of a building in a municipality are owned or occupied by different persons, the municipality may carry wires to any part of such building, and for that purpose may pass over or through or under the property belonging to any owner or in the possession of any tenant or occupant. R.S.O. 1960, c. 394, s. 31.

Parts III and IV of R.S.O. 1970, c. 390, to apply

32. Parts III and IV of *The Public Utilities Act* apply *mutatis mutandis* to a municipality establishing and carrying on a telephone system as a public utility, and the expression "public utility", where it occurs in those Parts, includes a telephone system. R.S.O. 1960, c. 394, s. 32.

Borrowing money for extension or acquisition

33.—(1) Where a municipality has heretofore constructed, purchased or acquired or hereafter constructs, purchases or acquires a telephone system under section 27 or 28 or where it has undertaken the construction, purchase or acquisition of such a system and it appears that the cost of the construction, purchase or acquisition has exceeded or will exceed the amount already provided for that purpose or where it is considered expedient by the council of the municipality to construct an extension or an improvement of the system, the council may, with the approval of the Board, pass a by-law for borrowing such further or other sums as may be necessary to complete, extend or improve the system or for the purchase or acquisition of the system or to meet the cost of any extension or improvement already made to the system.

Where assent of electors not required

(2) The by-law does not require the assent of the electors if it is passed by a vote of three-fourths of all the members of the council and is approved by the Board.

(3) Such approval may be given if it is shown to the satisfaction of the Board that the expenditure proposed to be made for any such extension or improvement or for the completion of the system or the purchase or acquisition is necessary and that sufficient revenue or sufficient additional revenue will be derived therefrom to meet the annual payments in respect of the debt and the interest thereon or where it is made to appear to the Board that the net revenue to be derived from the system justifies the construction of such extension or improvement. R.S.O. 1960, c. 394, s. 33. Where approval may be given

34. Sections 42 to 44, sections 53 to 56, section 62, sections 80 to 84, section 86, sections 89 to 99 and sections 102 to 115 apply *mutatis mutandis* to a municipality carrying on a telephone system as a public utility. R.S.O. 1960, c. 394, s. 34. Application of other provisions

35. A petition signed by not less than ten assessed landowners may be presented to the council of a local municipality praying for the establishment of a municipal telephone system. R.S.O. 1960, c. 394, s. 35. Petition for establishment of system

36. A petition signed by one or more assessed landowners may be presented to the council of a local municipality or the commissioners, as the case may be, in which a municipal telephone system has been established praying for an extension of the system so as to serve his or their premises, as the case may be. R.S.O. 1960, c. 394, s. 36. Petition for extension of system

37. A petition under section 35 or 36 shall set forth such particulars as the Commission requires, and a signature after being affixed to the petition shall not be removed therefrom except with the approval of the Commission, but no application for such approval shall be considered by the Commission after the lapse of six months from the date of the passing of the by-law for the establishment of the municipal telephone system or, in the case of a petition for an extension to the system, after the lapse of six months from the date upon which the signature was affixed to the petition. R.S.O. 1960, c. 394, s. 37. Particulars to be stated in petition and removal of names

38. Where the petition for the establishment or extension of a municipal telephone system prays that debentures of the initiating municipality be issued to pay the cost of the work, any additional landowner may, with the permission of the council or the commissioners, as the case may be, at any time before the passage of the debenture by-law, affix his signature to the petition, and thereupon and thereafter the additional landowner has all the rights and is subject to all the obligations of the original signatories to the petition. R.S.O. 1960, c. 394, s. 38. Adding signatures to petition

Petition to constitute contract

39. The petition constitutes a valid and binding contract on the part of each person signing it to repay to the initiating municipality his share of the cost of establishing or extending the municipal telephone system, as the case may be, and operating and maintaining the system. R.S.O. 1960, c. 394, s. 39.

By-law for establishment of system

40. Upon the receipt of a petition praying for the establishment of a municipal telephone system, the council of the initiating municipality may by by-law, at the expense of the subscribers and subject to such conditions as may be set forth in the by-law, provide for the establishment of the system and for the maintenance and operation of the system. R.S.O. 1960, c. 394, s. 40.

Construction of extensions

41. After the establishment of a municipal telephone system, the initiating municipality may from time to time, upon the receipt of a petition praying for an extension of the system, construct any extension that seems expedient and necessary in order to supply telephone service to the petitioners. R.S.O. 1960, c. 394, s. 41.

Extension of system to another municipality

42. The council of the initiating municipality or the commissioners, as the case may be, may from time to time extend the system into another municipality with the consent of the council of such other municipality or, without such consent, with the approval of the Commission. R.S.O. 1960, c. 394, s. 42.

Extension of system into unorganized territory

43. Subject to section 101, the council of the initiating municipality or the commissioners, as the case may be, may, with the consent of the Commission, extend the system into territory without municipal organization, and the part of such territory into which the system is extended, to be defined by the Commission, shall, for the purposes of this Act, be deemed to be annexed to the initiating municipality, and the council and officers thereof shall levy and collect all rates and tolls under this Act and do all acts and perform all duties and are subject to the same liabilities in respect of such part as, for the purposes of this Act, they may do, perform and are subject to with respect to the initiating municipality. R.S.O. 1960, c. 394, s. 43.

Approval of by-laws, plans and specifications

44.—(1) The initiating municipality, before proceeding to establish a system, shall furnish to the Commission a certified copy of the by-law providing for the establishment of the system, together with such plans, particulars of the cost of the work and such other information as the Commission requires, and no debt shall be incurred for the construction of the system or for the purchase of material to be used in the construction of its plant until the Board with the consent of the Commission has approved the by-law.

Extensions

(2) The by-laws may provide in general terms for the making

of extensions to the system from time to time thereafter and, upon the receipt of a petition for an extension, the initiating municipality may from time to time construct the extension, and, if any such extension requires the issue of debentures, the by-law authorizing the issue shall recite the making of the extension and shall adopt and confirm the same. R.S.O. 1960, c. 394, s. 44.

Location of exchange

45. The council of the initiating municipality or the commissioners, as the case may be, shall, with the approval of the Commission, determine the location of any exchange or switchboard of the system and any relocation of the same. R.S.O. 1960, c. 394, s. 45.

Ownership of system

46. A municipal telephone system established or extended is vested in the initiating municipality in trust for the benefit of the subscribers, and such municipality is liable for all the obligations of the system and has and may exercise all or any of the powers conferred on a municipality by sections 27, 28 and 31. R.S.O. 1960, c. 394, s. 46.

Sale of system or part

47.—(1) Subject to the approval of a majority of the subscribers present in person or represented by proxy at a general meeting of the subscribers called for the purpose and subject to the approval of the Commission, the council of an initiating municipality in which a municipal telephone system is vested may by by-law provide for the sale or other disposition of the whole or any part of the system.

Approval not required

(2) The Commission may by order dispense with the approval of the subscribers to the sale or other disposition of part of a system that, in the opinion of the Commission, is not a substantial part of the system.

Use of proceeds to discharge debts

(3) The proceeds of the sale or other disposition shall be applied and used in payment of the outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system.

Where deficiency occurs

(4) Where the assets of the system and the proceeds of the sale or other disposition of the whole or the part of the system are not sufficient to meet any outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system, the deficiency shall be paid out of the general funds of the initiating municipality and the amount so paid constitutes a debt due in equal shares from the subscribers to the initiating municipality and may be collected in the same manner as any other debt due by the subscribers under this Act.

Disposition of surplus

(5) The proceeds of the sale or other disposition not required for the purposes mentioned in subsection 3 shall,

(*a*) in the case of a sale or other disposition of part only of

the system, belong to the system and be applied and used according to the directions of the council of the municipality or the commissioners, as the case may be; and

(*b*) in the case of a sale or other disposition of the whole of the system, belong to the subscribers and be distributed among them in such manner and on such basis, having regard to their separate interests, as the Commission directs.

Where subscribers are unknown

(6) Where from absence or loss of records or other cause the council of the initiating municipality is unable to ascertain who the subscribers are and is therefore unable to obtain their approval to a sale or other disposition of the whole or a part of the system, the council, with the approval of the Commission upon proof of the fact and upon proof that the assets of the system and the proceeds of the sale or other disposition of the whole or part of the system will be sufficient to meet any outstanding debenture debt and other indebtedness and liabilities incurred in respect of the system, may authorize the sale or other disposition notwithstanding the absence of such approval, and the proceeds of the sale or other disposition not required for the purposes mentioned in subsection 2 shall,

(*a*) in the case of a sale or other disposition of part only of the system, belong to the system and be applied and used according to the directions of the council of the municipality or the commissioners, as the case may be; and

(*b*) in the case of a sale or other disposition of the whole of the system, be held, applied, used, distributed and disposed of in accordance with the directions of the council or the commissioners, as the case may be, and the approval of the Commission. R.S.O. 1960, c. 394, s. 47.

Issuing debentures for cost of work

48.—(1) Where the subscribers or a majority of them, in a petition for the establishment or extension of the system, pray that the payment of the cost of the work be extended over a period not exceeding twenty years and that debentures of the initiating municipality be issued to pay the cost of the work, the council of the initiating municipality in the by-law providing for the establishment or extension of the system, or in a subsequent by-law, may provide for the issue of debentures payable within a period not exceeding twenty years from the date of the issue thereof and that the proceeds of the debentures shall be applied in payment of the cost of establishing or extending the system, as the case may be, and for levying a special rate upon the property of the subscribers sufficient to discharge the debt so incurred in equal annual instalments of principal and interest.

(2) The debentures shall be issued on the credit of the initiating municipality, and it is not necessary that the by-law authorizing their issue be submitted for the assent of the electors, but no such by-law shall be passed for any of the purposes of this section until the approval of the Board has first been obtained. R.S.O. 1960, c. 394, s. 48. Assent of electors not required

49. The initiating municipality may, subject to subsection 1 of section 44 and subsection 2 of section 48, agree with any person for temporary advances to meet the cost of the work until the completion thereof and may then pass the necessary by-law authorizing the issue of debentures out of the proceeds of which the temporary advances shall be paid, but the by-law for the issue of debentures shall be passed not later than two years after the passing of the by-law for the establishment or extension of the system, as the case may be, and the debentures shall be issued within twelve months after the passing of the by-law authorizing the issue of the debentures, but the Board may extend beyond two years the period within which the by-law for the issuing of debentures may be passed and may extend beyond twelve months the period within which the debentures may be issued, and such extension of time may be granted although the application therefor is not made until after the expiration of such period of two years or twelve months, and in such case the by-law may be passed or the debentures issued within the extended time. R.S.O. 1960, c. 394, s. 49. Agreement for advances

50.—(1) Where in the opinion of the council of the initiating municipality or the commissioners, as the case may be, it is necessary or expedient to reconstruct, replace or alter the system or any part thereof and to issue debentures of the initiating municipality to meet the cost thereof, the council of the initiating municipality may, with the prior approval of a majority of the subscribers present in person or represented by proxy at a general meeting of the subscribers called for the purpose and the prior approval of the Board, pass a by-law authorizing the doing of the work and the issuing of debentures for that purpose, and it is not necessary that the by-law be submitted for the assent of the electors. Reconstruction, replacement or alteration of system

(2) The Board shall determine the period within which the debentures to be issued shall be made payable and the landowners who shall defray the cost of such reconstruction, replacement or alteration, and the lands upon and in respect of which the special rate shall be levied to discharge the debenture debt so incurred, with interest. How cost paid

(3) The provisions of this Act as to debentures apply to debentures issued under this section. R.S.O. 1960, c. 394, s. 50. Provisions of Act to apply

Extensions for persons not assessed as land-owners

51. The initiating municipality may, with the approval of the subscribers and with the prior approval of the Board and without obtaining the assent of the electors, pass by-laws authorizing the issue of debentures to meet the cost of making an extension or extensions to the system for the purpose of furnishing telephone service to persons who are not landowners but, before approving of any such by-law, the Board shall be satisfied that such extension or extensions is or are necessary and that a sufficient additional revenue will be derived therefrom to meet the annual payments of principal and interest in respect of the debt created by the issue of such debentures or that the net revenue derived from the system justifies the construction of such extension or extensions. R.S.O. 1960, c. 394, s. 51.

Works ordered to be deemed extension of system

52. Where an initiating municipality has been ordered by the Board or is ordered by the Commission to construct works under this Act, such works shall be deemed to be an extension of the system of such municipality and the council of the initiating municipality has and may exercise in respect of such works the like powers as are vested in the council by this Act in respect of the construction of an extension of a system and the issue of debentures to meet the cost thereof, and such powers may be exercised without a petition from the subscribers to the system or any of them. R.S.O. 1960, c. 394, s. 52.

Purchase by municipality of existing system

53. An initiating municipality may, with the consent of the Commission and the approval of the Board, by agreement with the owner acquire by purchase all or any part of any existing telephone system in the municipality or any part of such system in another municipality with the consent of the council of such other municipality and, failing such consent, with the approval of the Commission. R.S.O. 1960, c. 394, s. 53.

Acquisition of system by agreement or expropriation

54.—(1) For the establishment or extension of a telephone system or to avoid duplication of systems or any part thereof, an initiating municipality may offer to purchase at a fixed price a telephone system or any part thereof, and, if the owner does not accept the price so offered within one month from the date of the offer, the initiating municipality may, with the consent of the Commission and the approval of the Board, expropriate the system or the part thereof that it offered to purchase and the compensation to be made upon such expropriation shall be determined by the Commission, except that, where the expropriation includes the expropriation of land as defined in *The Expropriations Act*, that Act applies.

R.S.O. 1970, c. 154

Damage resulting from severance

(2) In fixing the price to be offered or the compensation to be made where part only of a system is proposed to be purchased or is expropriated, there shall be included in the price or compensation, as the case may be, a sum sufficient to compensate the owner of

the system for any damage directly resulting from the severance. R.S.O. 1960, c. 394, s. 54, *amended*.

Arbitration by Commission where parties fail to agree

55. Where a municipality owning and operating or intending to own and operate a telephone system has taken proceedings under this Act to acquire a part of the system of a municipality operating in the first-named municipality or in an adjoining municipality and the parties are unable to agree upon the price to be paid therefor, the Commission may prohibit further proceedings or may approve the acquisition and settle the terms and conditions thereof including the price to be paid and all other matters proper to be taken into consideration. R.S.O. 1960, c. 394, s. 55.

Powers of council to borrow money and to issue debentures

56. Where the council of an initiating municipality acquires by purchase or expropriation an existing telephone system or part thereof, the powers vested by this Act in the council of the initiating municipality as to borrowing by way of temporary advances and in respect of the issue of debentures for the establishment or extension of a system may be exercised by the council of the initiating municipality for the purpose of defraying the cost of such purchase. R.S.O. 1960, c. 394, s. 56.

Liability of subscribers

57. The cost of establishing a municipal telephone system or of an extension thereto shall be defrayed by the subscribers whose signatures are affixed to the petition for such establishment or extension in equal proportions or in such other proportions as are fixed by the council of the initiating municipality with the approval of the Commission, and, in case of default in payment by any subscriber of the amount so fixed, it may be collected as an ordinary debt by action against the person liable therefor or may be added to the collector's roll as taxes due from him and may be collected in the same manner as other taxes. R.S.O. 1960, c. 394, s. 57.

Special rate a charge on land

58.—(1) Where the subscribers have prayed that debentures of the initiating municipality be issued to pay the cost of the work, the special rates assessed against the land of a subscriber are a charge upon the land designated by the subscriber in the petition for the establishment or extension of a system and being land owned by the subscriber when he signed the petition, and shall, notwithstanding a change in the ownership of the land, continue to be a charge thereon until such rates have been fully paid, and such rates may, as they become payable, be collected as an ordinary debt by action against the person liable therefor or may be placed upon the collector's roll against the land as taxes due from the owner of the land and may be collected in the same manner as other taxes, and this section applies to all such rates heretofore or hereafter assessed against any lands under this Act or any predecessor of this Act.

Commutation of special rates

(2) Where land is liable to be specially assessed to meet the cost of the work, any subscriber may commute, for a payment in cash, the special rates assessable against his land forthwith after the actual cost of the work and the proportion of the cost payable by him have been ascertained. R.S.O. 1960, c. 394, s. 58.

Cost of maintenance

59.—(1) The cost of maintenance of a municipal telephone system shall be defrayed by the subscribers in equal proportions or in such other proportions as are fixed by the council of the initiating municipality and approved by the Commission and is a charge on the lands of the subscribers in the same proportion, and may be collected in the same manner and with the same remedies, as the cost of the establishment or extension of a system or as any special rate assessed against the land of a subscriber in respect of such cost.

Collections of tolls paid to other systems for subscribers

(2) Any tolls or moneys paid by the initiating municipality to any other system for telephone service furnished by such system to any subscriber of the initiating municipality are a charge upon the land of the subscriber and may be collected by the initiating municipality in the same manner and by the same remedies as the cost of the maintenance of the system. R.S.O. 1960, c. 394, s. 59.

Release of subscribers from liability

60.—(1) Where there are not outstanding debentures of a municipal telephone system, a subscriber may be released and discharged from all liability in respect of the system upon application to the Commission.

Idem

(2) Where debentures of a municipal telephone system are outstanding, a subscriber who has fully paid his share of all instalments of principal and interest due or to become due under the debenture by-law, together with all other charges payable by him in respect of the system, may be released and discharged from all liability in respect of the system upon application to the Commission. R.S.O. 1960, c. 394, s. 60 (1, 2).

Release on discontinuation of service

(3) Where telephone service of a municipal telephone system has been discontinued, any subscriber for such service, or any of his lands, may be released and discharged from all liability in respect of the system, other than liability under subsection 4 of section 47, upon application to the Commission.

Release on sale

(4) Where part only of the system has been sold or otherwise disposed of and where the moneys received by the system from the sale or disposition are equal to or exceeed the proportion of the debenture debt, interest thereon, maintenance costs and other costs chargeable under this Act at the date of sale against lands within the part of the system so sold or disposed of, the subscribers within such part are released and discharged from all liability in respect of the system.

(5) Where, under this section, any subscriber is released and discharged from liability or the whole of the lands of a subscriber are released and discharged from liability, such subscriber ceases to be a subscriber. When subscribership ceases

(6) A release and discharge from liability under this section does not discharge any person from any liability that may arise under any contract for telephone service. 1966, c. 153, s. 1. Release subject to contract charges

61.—(1) The Commission may from time to time inquire whether the rates and tolls charged for the service rendered by a municipal telephone system are sufficient to pay the cost of operation and maintenance of the system and the instalments of principal and interest on any outstanding debentures, or whether greater rates are charged than are sufficient for such purposes, and the Commission may order such revision or adjustment of the rates or tolls as it considers proper. Inquiry as to sufficiency of rates

(2) Where the revenues of a municipal telephone system are insufficient in any year to meet the cost of operation and maintenance of the system and the instalments of principal and interest falling due in such year on account of any outstanding debentures of the initiating municipality issued for the telephone system, the deficiency shall be paid out of the general funds of the initiating municipality and the amount so paid constitutes a debt due from the subscribers to the initiating municipality and may be collected in the same manner as any other debt due by subscribers under this Act. R.S.O. 1960, c. 394, s. 61. How deficiency made up

62. Any question arising as to the validity of any special rate levied under this Act shall be determined by the Commission on an application to it for that purpose. R.S.O. 1960, c. 394, s. 62. Validity of rate

63. The council of the initiating municipality or the commissioners, as the case may be, may prescribe the terms on which a person not being a subscriber may have his premises connected with the system and the rate at which he may receive telephone service, and any such rate that heretofore has been approved by the Board or may hereafter be approved by the Commission may be collected in the same manner and with the same remedies as a rate due and unpaid by a subscriber, but such rate does not become a charge against the land. R.S.O. 1960, c. 394, s. 63. Prescribing terms of connection

64. Until the control and management of a municipal telephone system is placed under commissioners, the system is under the control and management of the council of the initiating municipality. R.S.O. 1960, c. 394, s. 64. Council to manage system

65.—(1) Upon the petition of a majority of the subscribers, the council of the initiating municipality shall place the telephone system under the control and management of commissioners to be Petition for management by commissioners

designated "The Commissioners for the Telephone System of the Municipality of.....", a majority of whom may exercise all the powers of the commissioners.

Number of commissioners

(2) Where the system is in the initiating municipality only, there shall be three or five commissioners and, where the system extends into one or more other municipalities, there shall be an odd number of commissioners, not less than three.

Idem

(3) Subject to subsection 2, the number of commissioners first elected shall be as specified in the petition.

Increase or decrease in number of commissioners

(4) Subject to subsection 2, the commissioners may by by-law increase or decrease the number of commissioners, but no such by-law shall come into force until confirmed at a general meeting of the subscribers called for the purpose or at the next annual meeting of the subscribers, and if so confirmed such by-law shall not be amended or repealed until two annual elections have been held under it. R.S.O. 1960, c. 394, s. 65.

Election of commissioners

66. Except as authorized under clause *d* of subsection 1 of section 71, the commissioners shall be elected each year at the annual general meeting of the subscribers or at a general meeting called for the purpose, and the commissioners shall hold office until their successors are elected. R.S.O. 1960, c. 394, s. 66.

Eligibility

67.—(1) No person is eligible for election as a commissioner unless he is a subscriber to the municipal telephone system.

Disqualification

(2) No assessor, collector, treasurer, clerk, auditor or member, other than the head, of the council of a municipality is eligible to be elected a commissioner. R.S.O. 1960, c. 394, s. 67.

Vacancies

68. Where a commissioner resigns, dies or becomes incapacitated, the council of the initiating municipality shall immediately appoint a successor who shall hold office until the next general meeting of the subscribers. R.S.O. 1960, c. 394, s. 68; 1962-63, c. 139, s. 3.

Powers of commissioners

69.—(1) Upon the election of the commissioners, the control and management of the municipal telephone system are vested in the commissioners and all the provisions of this Act relating to the initiating municipality and the council thereof in respect of the system, except in so far as they or any of them are by this Act expressly excepted, are applicable to the commissioners.

Ownership of system and duties of initiating municipality

(2) The election of the commissioners does not affect the ownership of the system nor the authority and duty of the initiating municipality to provide from time to time all moneys required for the establishment and maintenance of the system and any extension thereof, nor the right of the initiating municipality to levy and collect all moneys and special rates that may be

due and owing from time to time by the subscribers. R.S.O. 1960, c. 394, s. 69.

Security to be given by secretary, etc.

70. The commissioners may require the secretary or any other officer of the municipal telephone system to give such security as they require for the faithful performance of his duties and for the accounting for and paying over of all moneys that come into his possession or control. R.S.O. 1960, c. 394, s. 70.

By-laws

71.—(1) The commissioners may pass by-laws to provide for and regulate,

(*a*) the time and place at which meetings of subscribers shall be held and the manner of calling and the procedure at meetings;

(*b*) the manner of election, duties and remuneration of the commissioners;

(*c*) the control and management of the system;

(*d*) the term of office of the commissioners by extending the term to three years so that at the first election of commissioners for a term of three years one or more of them shall hold office for a term of one year only, one or more of them for a term of two years and the remaining one or more for a term of three years,

but such by-laws shall not come into force until approved by the Commission and confirmed at a general meeting of the subscribers called for the purpose or at the next annual meeting of the subscribers.

Remuneration of commissioners

R.S.O. 1970, c. 284

(2) A by-law under clause *b* of subsection 1 providing for and regulating the remuneration of the commissioners does not require the approval of the Department of Municipal Affairs under section 391 of *The Municipal Act*. R.S.O. 1960, c. 394, s. 71.

Assumption of control by council of system operated by commissioners

72. Upon the petition of a majority of the subscribers of a municipal telephone system praying that the council of the initiating municipality take over the control and management of the system, the council shall pass a by-law for that purpose, and thereupon the commissioners shall hand over to the council, or some official designated by it, all the property of the system, including all moneys, vouchers, books, papers, documents and memoranda relating to the system, and thereafter the control and management of the system is vested in the initiating municipality and the council thereof. R.S.O. 1960, c. 394, s. 72.

Annual meeting

73. Every municipal telephone system shall hold a general meeting of its subscribers in each year not later than the 1st day of

April or at such time later in each year as is approved by the Commission. R.S.O. 1960, c. 394, s. 73.

Financial statement to be sent to subscribers

74.—(1) Not less than ten days before the day fixed for holding the annual general meeting, a financial statement shall be sent by first-class prepaid mail or delivered to each subscriber, to each member of the council of the initiating municipality and to the Commission containing,

(*a*) a balance sheet showing in sufficient detail the assets and liabilities of the system as of the 31st day of December last past;

(*b*) a statement of the income and expenditure of the system for the financial year ending on the 31st day of December last past;

(*c*) a copy of the report of the auditor or auditors for the year ending on the 31st day of December last past;

(*d*) such other information respecting the system as the by-law requires or the Commission prescribes.

Statement to be submitted to meeting

(2) The financial statement mentioned in subsection 1 shall be submitted to the subscribers at the annual general meeting. R.S.O. 1960, c. 394, s. 74.

Notice

75.—(1) In default of other express provision in the by-laws of the system, notice of the time and place of holding any general meeting of the subscribers shall be given at least ten days before the meeting by first-class prepaid mail or by delivery to each subscriber and to each member of the council of the initiating municipality.

Sending notices

(2) Notices calling a general meeting of the subscribers and the financial statement shall be sent by the commissioners or by their secretary or other officer and, where the system is under the control and management of the council, by the clerk of the initiating municipality.

Business to be stated

(3) The notice calling a general meeting of the subscribers shall state the business that is to be transacted at it. R.S.O. 1960, c. 394, s. 75.

General meeting called on requisition

76.—(1) Upon receipt of a requisition in writing, signed by not less than one-tenth of the subscribers, setting forth the objects of the proposed meeting, the commissioners, by their secretary or other officer or, where the system is under the control and management of the council, the clerk of the initiating municipality shall forthwith call a general meeting of the subscribers for the transaction of the business mentioned in the requisition.

General meeting called by subscribers

(2) If the meeting is not called and held within twenty-one days from the date upon which the requisition was sent or

delivered to the chairman or secretary of the commissioners or to the clerk of the initiating municipality, as the case may be, one-tenth of the subscribers, whether they signed the requisition or not, may themselves, by notice as provided in section 75, call a general meeting of the subscribers for the transaction of the business. R.S.O. 1960, c. 394, s. 76.

General meeting called by council, etc.

77. The council of the initiating municipality or the commissioners, as the case may be, may of their own motion call a general meeting of the subscribers for the transaction of any business. R.S.O. 1960, c. 394, s. 77.

Who may vote at general meeting

78. No person is entitled to vote at a general meeting of a municipal telephone system unless he is a subscriber to the system, but any member of the council of the initiating municipality may attend any general meeting and take part in the deliberations thereat, but shall not vote unless he is a subscriber. R.S.O. 1960, c. 394, s. 78.

Quorum

79.—(1) The presence in person of not fewer than five subscribers representing in person or by proxy at least one-tenth of all the subscribers is necessary to constitute a quorum at a general meeting of the subscribers of a municipal telephone system, and the instrument appointing a proxy shall be in writing under the hand of the appointer or, if such appointer is a corporation, under its seal, and shall be attested by at least one witness, and no person shall be appointed a proxy who is not a subscriber.

Quorum not required

(2) Where a quorum is not present one hour after the time a general meeting has been called, the meeting shall be adjourned for one week at the same time and place and those subscribers present at the second meeting constitute a quorum. R.S.O. 1960, c. 394, s. 79.

Duties of municipal officials of initiating municipality

80. Where a municipal telephone system is under the control and management of the initiating municipality, the several officials of the municipality in their respective offices shall do and perform all acts, matters and things herein on their part respectively directed to be done and performed in respect of the system, and, where the system is under the control and management of commissioners, the several officials respectively shall do and perform the acts, matters and things in like manner unless relieved therefrom by the commissioners. R.S.O. 1960, c. 394, s. 80.

Duties where system extended to another municipality

81.—(1) Where a municipal telephone system extends into a municipality other than the initiating municipality, the clerk of the initiating municipality shall,

(*a*) forthwith after its passing, transmit to the clerk of the

other municipality a certified copy of every debenture by-law charging with a rate the premises of any subscriber situated in the other municipality; and

(b) when so required by the initiating municipality or the commissioners, as the case may be, transmit to the clerk of the other municipality, on or before such date as the council of the other municipality by by-law prescribes, the amount in respect of the debentures and the cost of maintenance payable by each such subscriber.

Collection of rates

(2) The amount payable by each subscriber shall be placed on the collector's roll and shall be collected in the same manner as municipal taxes and paid over to the treasurer of the initiating municipality at the end of each month. R.S.O. 1960, c. 394, s. 81.

Remuneration of municipal officials

82. The initiating municipality or the commissioners, as the case may be, shall pay to the clerk, treasurer and collector of the initiating municipality and to the clerk, treasurer and collector of any other municipality into which its system extends a reasonable remuneration for the services performed by them or any of them under this Act, and such remuneration shall be fixed by agreement between the official performing the service and the council of the municipality or the commissioners, as the case may be, and, failing agreement, by the Commission on an application to it for that purpose. R.S.O. 1960, c. 394, s. 82.

Breach of duties by municipal officials

83. The clerk, treasurer or collector of any municipality failing or neglecting to do and perform any act, matter or thing required of him by this Act or by order of the Commission directed to be done and performed by them respectively is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1960, c. 394, s. 83.

Books to be kept

84.—(1) The council of the initiating municipality or the commissioners, as the case may be, shall cause proper books of account to be kept containing full and true statements of,

(a) the financial transactions of the system;

(b) the assets of the system;

(c) the sums of money received and expended in respect of the system and the matters in respect of which such receipt and expenditure took place;

(d) the credits and liabilities of the system;

(e) the name of every subscriber and the location of his subscribed property,

and a book or books containing minutes of all the proceedings and votes at meetings of the council or commissioners and of subscri-

bers verified by the signature of the head of the council, the chairman of the commissioners or other presiding officer, as the case may be.

Deposit and withdrawal of moneys

(2) All moneys received in respect of the system shall be deposited forthwith in a chartered bank in an account in the name of the system and all expenditures in respect of the system shall be paid by cheque drawn upon such account signed by the head of the council and treasurer of the initiating municipality or such other two signing officers as the council appoints or, where the system is under the control and management of commissioners, by the chairman and treasurer or such other two signing officers as the commissioners appoint. R.S.O. 1960, c. 394, s. 84.

Audit of accounts

85. The accounts and transactions of a municipal telephone system shall be audited at least once in every year by the municipal auditor or auditors appointed and compensated as provided in section 227 of *The Municipal Act*. R.S.O. 1960, c. 394, s. 85.

R.S.O. 1970, c. 284

Limitation of actions

86. No action shall be brought against a municipal corporation or any of its officers, agents or servants for anything done or omitted in the construction, operation or maintenance of a municipal telephone system or in the exercise of any of the powers conferred by this Act after the lapse of six months from the time when the cause of action arose. R.S.O. 1960, c. 394, s. 86.

Partnerships and unincorporated associations to be incorporated

87. Every unincorporated association or partnership of persons, comprising five or more members or partners, owning or proposing to own a telephone system and using or proposing to use a public highway or highways for the purpose of furnishing telephone service to the members or partners of such unincorporated association or partnership, or any of them, or to other persons, shall secure letters patent or articles of incorporation creating them a corporation with share capital for the purpose of carrying on the business of a telephone company. R.S.O. 1960, c. 394, s. 87, *amended*.

By-laws to be approved by Commission

R.S.O. 1970, cc. 53, 89

88. No by-law, special by-law or special resolution, as defined in *The Business Corporations Act* or *The Corporations Act*, whichever is applicable, of an incorporated telephone company hereafter passed has any force or effect until approved by the Commission and every such company shall cause such by-laws, special by-laws and special resolutions to be kept available for inspection at the head office of the company. R.S.O. 1960, c. 394, s. 88, *amended*.

Proper service to be given

89.—(1) Every telephone system shall furnish continuous telephone service that adequately and efficiently meets the needs of the public in the territory in which it operates.

Complaints

(2) Any person who is not satisfied with the service rendered may lodge a complaint with the Commission with respect thereto and the Commission may order the system complained against to take such action as the Commission considers necessary. R.S.O. 1960, c. 394, s. 89.

Termination of service

(3) Where a person supplied with telephone service is in default of payment of any rate or toll in respect of a service, the system may terminate the service upon giving the person seven days notice thereof in writing. 1962-63, c. 139, s. 4.

Orders to ensure proper service

90. The Commission may make such orders for the construction and maintenance of a plant as it from time to time considers necessary in order to ensure adequate and efficient telephone service to the public and for the protection of life and property. R.S.O. 1960, c. 394, s. 90.

Equipment ownership

91. Every telephone system shall own and maintain all equipment, except run-off poles on private property, operated in connection with the system, unless otherwise consented to by the Commission. R.S.O. 1960, c. 394, s. 91.

Duplication of pole leads on highways

92. No telephone system shall erect poles upon or along or adjacent to and parallel with any part of a highway upon or along which the pole leads of another system are already erected, or otherwise by means of its plant or any part thereof duplicate the plant of or compete with any other system that furnishes telephone service in the same locality in which the first-mentioned system proposes to furnish such service, unless by consent of the Commission. R.S.O. 1960, c. 394, s. 92.

Use of pole leads by two or more systems

93. Where in the opinion of the Commission the convenience of persons desiring telephone service requires the extension of a telephone system upon or along a highway, upon or along which there is already a telephone pole lead, the Commission may make such order as it considers expedient for authorizing the extension and consolidating the pole leads upon or along the highway. R.S.O. 1960, c. 394, s. 93.

Telephone service to be furnished on request

94. Notwithstanding anything in this Act, where a person makes application to a telephone system for telephone service, the system shall furnish such service upon terms to be agreed upon and, failing agreement, upon such terms and conditions as are ordered by the Commission. R.S.O. 1960, c. 394, s. 94.

Erection of poles on highways

95. Where it is necessary for the purpose of carrying into effect an order of the Commission that a telephone system should erect poles, cables, ducts or wires upon or along any road or highway under the jurisdiction of a town, village, county or

township, the system may, notwithstanding any limitations in any letters patent, articles of incorporation or otherwise, erect the poles, cables, ducts and wires upon or along the road or highway upon such terms and conditions as are agreed upon between the council of the municipality and the system, and, if the council and the system are unable to agree, then upon such terms and conditions as the Commission prescribes. R.S.O. 1960, c. 394, s. 95, *amended*.

Agreements for connection, joint operation, etc.

96. A telephone system may enter into an agreement with any other system, whether the latter system is under the jurisdiction of the Legislature or not, providing for the connection, intercommunication, joint operation or reciprocal use of the respective lines and other plant controlled, owned or operated by the systems and for the transmission of business between the systems, and for the interchange of messages passing to, from or over their lines and other plant, and for the apportionment of tolls, commissions and expenditures and the division of receipts and profits and generally for the regulation, management and operation of their lines and other plant, but no such agreement has any validity or effect until approved by the Commission. R.S.O. 1960, c. 394, s. 96.

Commission may order connection, joint operations, etc.

97. Where the lines or other parts of the plant of two or more telephone systems are situated in such proximity to each other as to make it expedient in the public interest that they be connected in order that there be intercommunication between them or joint operation or reciprocal use of them or that the lines or other plant be used jointly by the systems for the transmission of messages and either or any of the systems fail or refuse to enter into an agreement with the other or others, the Commission shall order,

(*a*) that such connection be made;

(*b*) by whom and in what manner any line or works necessary for the purpose of making the connection shall be constructed and maintained;

(*c*) how the cost incurred in constructing and maintaining it or them shall be borne; and

(*d*) upon such terms and conditions as the Commission may prescribe, that there shall be such intercommunication between or joint operation or reciprocal use of, and such transmission of messages by or over, the lines or other plant, including any connecting lines or works as the Commission may prescribe. R.S.O. 1960, c. 394, s. 97.

Intercommunication by systems

98.—(1) Where the lines of one or more telephone systems terminate on the switchboard of another system, the other system shall furnish all reasonable and proper facilities for the interchange of conversations between the systems.

What facilities to be used

(2) The facilities to be so afforded shall include the providing of suitable switching facilities to connect the lines of the systems and the permitting of conversations to be transmitted without unreasonable delay over the lines so connected.

Terms

(3) The terms upon which the facilities for the interchange of conversation between two or more systems to be afforded under this section shall be fixed by agreements between the systems concerned, subject to the approval of the Commission, and, failing such agreement, they shall be fixed by the Commission. R.S.O. 1960, c. 394, s. 98.

Intercommunication between federal and provincial systems

99. Where the lines or other parts of the plant of a telephone system under the jurisdiction of the Legislature and the lines or other parts of the plant of a system under the jurisdiction of the Parliament of Canada are situate in such proximity to each other as to make it practicable for the lines or other parts of the plant to be so connected as to provide direct communication whenever required between any telephone on the one system and any telephone on the other system, either of the systems or any municipal corporation or other public body or any person interested may file with the Commission and with the Canadian Transport Commission an application for an order that such connection be made together with evidence of service of the application upon the systems interested or affected and clauses *b*, *c*, *d* and *e* of subsection 1 of section 131 of *The Railways Act* apply *mutatis mutandis* to every such application. R.S.O. 1960, c. 394, s. 99, *amended*.

R.S.O. 1950, c. 331

Use of highways

100.—(1) No telephone system shall place in, upon, over or under any highway, lane or square under the jurisdiction of the council of a municipality any poles, cables, ducts, wires or other structures or equipment without having acquired the right so to do.

Grants of right to use highways

(2) Notwithstanding the provisions of any other Act and with the approval of the Commission, the council of any municipality may pass a by-law or by-laws for granting to a system, upon such terms and conditions as are considered expedient, the right to use any highway, square or lane under its jurisdiction for placing in, upon, over or under the same poles, cables, ducts, wires or other structures or equipment, but no such by-law comes into force until approved by the Commission.

Commission to determine differences as to use of highways

(3) Where the council and the system are unable to agree as to the terms and conditions upon which such right is to be granted, the council or the system may refer the matters in dispute to the Commission in which case the Commission, after hearing the evidence of all persons interested, may prescribe the terms and conditions, and thereupon the terms and conditions are binding upon the municipality and the system.

(4) Where a system fails to comply with any provision of this Act or the regulations or any order of the Commission, the Commission may terminate any right conferred upon the system under this section, in which case the by-law granting the right shall be deemed to be repealed. Termination of right

(5) Upon the termination of any right conferred upon a system under this section in accordance with the terms and conditions of the by-law granting the right or in accordance with an order of the Commission, the council may, with the approval of the Commission, order the system to remove its poles, cables, ducts, wires and other structures and equipment from the highways, squares and lanes under the jurisdiction of the council and, upon failing to comply with the order within ninety days, the council may remove the poles, cables, ducts, wires and other structures and equipment and charge the cost thereof to the system. R.S.O. 1960, c. 394, s. 100. Effect of termination of right

101. The right to use, for the purposes of section 100, any highway or road allowance situated in territory without municipal organization may be granted by the Minister of Lands and Forests upon such terms and conditions and subject to such rentals or charges as he may determine. R.S.O. 1960, c. 394, s. 101. Right to use highways in unorganized territory

102.—(1) A telephone system shall not enter into an agreement with any other system that may have the effect of increasing the cost of telephone service to the public until the proposed agreement has been submitted to and approved by the Commission. Agreements increasing cost of service

(2) This section does not apply to an agreement in relation to a matter to which section 103 applies. R.S.O. 1960, c. 394, s. 102. Application of section

103. No telephone system and no part of a system or controlling interest in a system shall be sold or disposed of and no system shall be amalgamated with another system and no system shall enter into an agreement that in effect transfers its ownership or control until the Commission has approved the sale or other disposition, amalgamation or agreement. R.S.O. 1960, c. 394, s. 103; 1962-63, c. 139, s. 5. Sales or transfers of systems, etc.

104. The Commission may by its order terminate any of the rights, powers and privileges possessed by or conferred upon any telephone system under this Act, if the system contravenes section 102 or 103, and may by its order prohibit the system from carrying on business under this Act. R.S.O. 1960, c. 394, s. 104. Termination of powers of system

105.—(1) Every telephone system shall file with the Commission its tariff of rates and tolls in such form and containing such particulars as the Commission requires and no system or Tariffs and tolls to be filed and approved

municipality shall charge or levy any rate or toll that has not been filed with and approved by the Commission. R.S.O. 1960, c. 394, s. 105.

Public hearing

(2) Where the Commission is of the opinion that a change in a tariff of rates and tolls should not be approved without a public hearing, it shall give written notice of the time and place of the hearing to the telephone system desiring the change, and the telephone system shall, unless the Commission orders otherwise, publish, once a week for two successive weeks immediately preceding the hearing, notice of the hearing in a newspaper having general circulation in the municipality or municipalities where the change in the tariff is sought. 1962-63, c. 139, s. 6.

Prohibition against discrimination as to tolls, free service

106. There shall be no discrimination by any telephone system in favour of or against any person furnished with telephone service by the system by way of reduction or increase in any rate or toll, and no system shall without the approval of the Commission furnish free telephone service to any person. R.S.O. 1960, c. 394, s. 106.

Offence

107. Every officer of a telephone system who wilfully authorizes or permits any contravention of section 105 or 106 is guilty of an offence and on summary conviction is liable to a fine of not more than $50 for each offence. R.S.O. 1960, c. 394, s. 107.

Depreciation fund

108.—(1) Every telephone system shall provide and maintain a proper and adequate depreciation fund and for that purpose shall set aside each year a proportion of its earnings and the fund so provided shall, unless otherwise authorized by the Commission, be applied exclusively to meet the cost of the renewal and replacement of such part of the plant of the system as may be rendered necessary by age, wear and tear, obsolescence, damage by storm or other contingency and the Commission may require the system to make such changes in the rate of depreciation from time to time as the Commission considers expedient.

Deposit, investment and application of fund

(2) The moneys carried to the credit of the depreciation fund shall, unless the Commission otherwise directs, be deposited in a chartered bank at interest and,

R.S.O. 1970, c. 470

(*a*) may be invested in such securities as trustees may invest in under *The Trustee Act*; or

(*b*) may, with the approval of the Commission, be expended in new construction or extensions or additions to the system.

Interest

(3) All earnings accruing from any part of the depreciation fund deposited or invested as provided in subsection 2 shall from time to time be carried to the credit of the depreciation fund. R.S.O. 1960, c. 394, s. 108.

109.—(1) A telephone system shall not issue stock, bonds, notes or other evidence of indebtedness payable at periods of more than twelve months after the date thereof until it has obtained from the Commission an order authorizing the issue and the amount thereof and stating the purposes to which the issue or proceeds thereof are to be applied and that in the opinion of the Commission the money, property or labour to be procured or paid for by the issue of the stock, bonds, notes or other evidence of indebtedness is or has been reasonably required for the purposes specified in the order. Approval of issue of stock, bonds, notes, etc.

(2) Every officer of a system who wilfully authorizes or permits any contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $50 for each offence. R.S.O. 1960, c. 394, s. 109. Offence

110.—(1) Every person who uses or interferes with or permits to be used or interfered with any telephone instrument, wiring or other equipment so as to injure or damage it or prevent the proper use of the circuit to which the telephone instrument, wiring or other equipment is connected is guilty of an offence and on summary conviction is liable to a fine of not more than $50 for each offence. Prohibition against interference with instruments

(2) Every officer of a telephone system who wilfully authorizes or permits any contravention of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $50 for each offence. R.S.O. 1960, c. 394, s. 110. Idem

111. Every operator or other person in the employ of a telephone system who divulges the purport or substance of any telephone conversation or message passing over the lines of the system, except when lawfully authorized or directed so to do, is guilty of an offence and on summary conviction is liable to a fine of not more than $50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1960, c. 394, s. 111. Employees divulging conversations

112. Every person who, having acquired knowledge of any conversation or message passing over any telephone line not addressed to or intended for such person, divulges the purport or substance of the conversation or message, except when lawfully authorized or directed so to do, is guilty of an offence and on summary conviction is liable to a fine of not more than $50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1960, c. 394, s. 112. Persons other than employees divulging conversations

113. Every person who, when using a telephone instrument or conversing over a telephone line, whether the telephone instrument or line is owned by a telephone system under the jurisdiction of the Legislature or not, uses indecent, obscene, blasphemous or Using obscene language

grossly insulting language is guilty of an offence and on summary conviction is liable to a fine of not more than $50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1960, c. 394, s. 113.

Refusal to give up line

114. Every person who, when using a telephone instrument or conversing over a telephone line, whether the telephone instrument or line is owned by a telephone system under the jurisdiction of the Legislature or not, refuses to give up or permit the use of the line when requested so to do by the operator or by any other person in case of a fire, accident, sickness or other similar emergency is guilty of an offence and on summary conviction is liable to a fine of not more than $50 or to imprisonment for a term of not more than thirty days, or to both. R.S.O. 1960, c. 394, s. 114.

Annual returns

115.—(1) Every telephone system shall, on or before the 1st day of April in each year or, in the case of any one or more systems, at such later time in any year as the Commission approves, furnish to the Commission a return containing such particulars respecting the cost, receipts, expenditures, operation, management and equipment of the system as the Commission requires.

Offence

(2) Every officer of a system who authorizes or acquiesces in any default in making a return under subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $50 for each day during which the default continues. R.S.O. 1960, c. 394, s. 115.

R.S.O. 1970, c. 52, not to apply

116. *The Bulk Sales Act* does not apply to the sale of a telephone system or a part thereof under this Act. R.S.O. 1960, c. 394, s. 116.

Interpretation

117.—(1) In this section, "communication service" means any form of communication by electrical currents or impulses conducted by wires, cables or radio, other than telephone service.

Municipality may provide communication service

(2) Where a communication service may be conveniently provided in conjunction with telephone service and all provisions of any Act of the Legislature or the Parliament of Canada respecting such communication service have been complied with,

(*a*) the council of a municipality that is carrying on a telephone system as a public utility; or

(*b*) the council of an initiating municipality or the commissioners of a municipal telephone system, as the case may be,

may, with the approval of the Commission, provide the communication service as part of the telephone system.

(3) Where approval of the Commission has been given under subsection 2, By-law authorizing work and issue of debentures

(*a*) the council of a municipality that is carrying on a telephone system as a public utility may, with the prior approval of the Board, pass a by-law authorizing the work and the issuing of debentures for that purpose but such a by-law is not valid until it has received the assent of the electors qualified to vote on money by-laws under *The Municipal Act*; or R.S.O. 1970, c. 284

(*b*) the council of an initiating municipality may, with the prior approval of a majority of the subscribers present in person or represented by proxy at a general meeting of the subscribers called for the purpose and with the prior approval of the Board, pass a by-law authorizing the work and the issuing of debentures for that purpose and it is not necessary that the by-law be submitted for the assent of the electors.

(4) The Board shall determine the period within which the debentures to be issued shall be made payable and, in the case of a by-law made under clause *b* of subsection 3, the landowners who shall defray the cost of such works and the lands upon and in respect of which the special rate shall be levied to discharge the debenture debt so incurred, with interest. How cost paid

(5) The provisions of this Act as to debentures apply to debentures issued under this section. 1970, c. 34, s. 1. Provisions of Act to apply

CHAPTER 458

The Territorial Division Act

1. The territorial division of Ontario into counties and districts and metropolitan and regional areas shall continue as hereinafter set forth, and, subject to sections 4, 5, 6 and 7, for municipal and judicial purposes such counties, and for judicial purposes such districts and metropolitan and regional areas, are respectively composed as follows: Organization continued

[NOTE: *As to municipal and judicial purposes in provincial parks, see The Provincial Parks Act,* R.S.O. 1970, c. 371, s. 3 (5, 6).]

1.—THE COUNTY OF BRANT Brant

consists of,

(*a*) the City of Brantford;

(*b*) the Town of Paris;

(*c*) the townships of,

Brantford,	Onondaga,
Burford,	South Dumfries,
Oakland,	Tuscarora,

except that the Township of Tuscarora continues to be withdrawn from and does not form part of the County of Brant for municipal purposes.

2.—THE COUNTY OF BRUCE Bruce

consists of,

(*a*) the towns of Chesley, Kincardine, Port Elgin, Southampton, Walkerton, Wiarton;

(*b*) the villages of Hepworth, Lion's Head, Lucknow, Mildmay, Paisley, Ripley, Tara, Teeswater, Tiverton;

(*c*) the townships of,

Albemarle,	Culross,
Amabel,	Eastnor,
Arran,	Elderslie,
Brant,	Greenock,
Bruce,	Huron,
Carrick,	Kincardine,

Kinloss, St. Edmunds,
Lindsay, Saugeen.

The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

The Indian Reserve at Chief's Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel.

Dufferin

3.—THE COUNTY OF DUFFERIN

consists of,

(a) the Town of Orangeville;

(b) the villages of Grand Valley, Shelburne;

(c) the townships of,

Amaranth, Melancthon,
East Garafraxa, Mono,
East Luther, Mulmur.

Dundas

4.—THE COUNTY OF DUNDAS

consists of,

(a) the villages of Chesterville, Iroquois, Morrisburg, Winchester;

(b) the townships of,

Matilda, Williamsburgh,
Mountain, Winchester.

Durham

5.—THE COUNTY OF DURHAM

consists of,

(a) the towns of Bowmanville, Port Hope;

(b) the villages of Millbrook, Newcastle;

(c) the townships of,

Cartwright, Darlington,
Cavan, Hope,
Clarke, Manvers.

Elgin

6.—THE COUNTY OF ELGIN

consists of,

(a) the City of St. Thomas;

(*b*) the Town of Aylmer;

(*c*) the villages of Belmont, Dutton, Port Burwell, Port Stanley, Rodney, Springfield, Vienna, West Lorne;

(*d*) the townships of,

Aldborough,	South Dorchester,
Bayham,	Southwold,
Dunwich,	Yarmouth.
Malahide,	

7.—THE COUNTY OF ESSEX

Essex

consists of,

(*a*) the City of Windsor;

(*b*) the towns of Amherstburg, Belle River, Essex, Harrow, Kingsville, Leamington, Tecumseh;

(*c*) the Village of St. Clair Beach;

(*d*) the townships of,

Anderdon,	Mersea,
Colchester North,	Pelee,
Colchester South,	Rochester,
Gosfield North,	Sandwich South,
Gosfield South,	Sandwich West.
Maidstone,	Tilbury North,
Malden,	Tilbury West,

except that the Township of Pelee continues to be separate, for municipal purposes, from the County of Essex.

Certain islands included in Township of Pelee

Middle Sister Island, North Harbour Island, East Sister Island, Hen Island, Big Chicken Island, Little Chicken Island, and Middle Island together with all lands and water in Lake Erie within one mile of the shore of Pelee Island form part of the Township of Pelee.

8.—THE COUNTY OF FRONTENAC

Frontenac

consists of,

(*a*) the City of Kingston;

(*b*) the townships of,

Barrie,	Kennebec,
Bedford,	Kingston,
Clarendon and Miller,	Loughborough,
Hinchinbrooke,	Olden,
Howe Island,	Oso,

Palmerston and North and South Canonto,
Pittsburgh,
Portland,
Storrington,
Wolfe Island (including Garden Island, Simcoe Island, Horseshoe Island and Mud Island).

Glengarry

9.—THE COUNTY OF GLENGARRY

consists of,

(*a*) the Town of Alexandria;

(*b*) the villages of Lancaster, Maxville;

(*c*) the townships of,

Charlottenburgh,
Kenyon,
Lancaster,
Lochiel.

Grenville

10.—THE COUNTY OF GRENVILLE

consists of,

(*a*) the separated Town of Prescott;

(*b*) the Town of Kemptville;

(*c*) the villages of Cardinal, Merrickville;

(*d*) the townships of,

Augusta,
Edwardsburgh,
Oxford (on Rideau),
South Gower,
Wolford.

Grey

11.—THE COUNTY OF GREY

consists of,

(*a*) the City of Owen Sound;

(*b*) the towns of Durham, Hanover, Meaford, Thornbury;

(*c*) the villages of Chatsworth, Dundalk, Flesherton, Markdale, Neustadt, Shallow Lake;

(*d*) the townships of,

Artemesia,
Bentinck,
Collingwood,
Derby,
Egremont,
Euphrasia,
Glenelg,
Holland,
Keppel,
Normanby,
Osprey,
Proton,
St. Vincent,
Sarawak,
Sullivan,
Sydenham.

12.—THE COUNTY OF HALDIMAND

Haldimand

consists of,

(*a*) the towns of Caledonia, Dunnville;

(*b*) the villages of Cayuga, Hagersville, Jarvis;

(*c*) the townships of,

Canborough,
Dunn,
Moulton,
North Cayuga,
Oneida,
Rainham,
Seneca,
Sherbrooke,
South Cayuga,
Walpole.

13.—THE COUNTY OF HALTON

Halton

consists of,

(*a*) the towns of Acton, Burlington, Georgetown, Milton, Oakville;

(*b*) the townships of,

Esquesing,
Nassagaweya,

14.—THE COUNTY OF HASTINGS

Hastings

consists of,

(*a*) the City of Belleville;

(*b*) the Town of Deseronto;

(*c*) the separated Town of Trenton;

(*d*) villages of Bancroft, Deloro, Frankford, Madoc, Marmora, Stirling, Tweed;

(*e*) the townships of,

Bangor, Wicklow and McClure,
Carlow,
Dungannon,
Elzevir and Grimsthorpe,
Faraday,
Herschel,
Hungerford,
Huntingdon,
Limerick,
Madoc,
Marmora and Lake,
Mayo,
Monteagle,
Rawdon,
Sidney,
Thurlow,
Tudor and Cashel,
Tyendinaga,
Wollaston.

Huron

15.—THE COUNTY OF HURON

consists of,

(*a*) the towns of Clinton, Exeter, Goderich, Seaforth, Wingham;

(*b*) the villages of Bayfield, Blyth, Brussels, Hensall, Zurich;

(*c*) the townships of,

Ashfield,	McKillop,
Colborne,	Morris,
East Wawanosh,	Stanley,
Goderich,	Stephen,
Grey,	Tuckersmith,
Hay,	Turnberry,
Howick,	Usborne,
Hullett,	West Wawanosh.

Kent

16.—THE COUNTY OF KENT

consists of,

(*a*) the City of Chatham;

(*b*) the towns of Blenheim, Bothwell, Dresden, Ridgetown, Tilbury, Wallaceburg;

(*c*) the villages of Erieau, Erie Beach, Highgate, Thamesville, Wheatley;

(*d*) the townships of,

Camden,	Orford,
Chatham,	Raleigh,
Dover,	Romney,
Harwich,	Tilbury East,
Howard,	Zone.

Lambton

17.—THE COUNTY OF LAMBTON

consists of,

(*a*) the City of Sarnia;

(*b*) the towns of Forest, Petrolia;

(*c*) the villages of Alvinston, Arkona, Courtright, Grand Bend, Oil Springs, Point Edward, Thedford, Watford, Wyoming;

(*d*) the townships of,

Bosanquet,	Dawn,
Brooke,	Enniskillen,

Euphemia,
Moore,
Plympton,
Sarnia,
Sombra (including Walpole Island, St. Anne's Island and the other islands at the mouth of the St. Clair River),
Warwick.

18.—THE COUNTY OF LANARK

Lanark

consists of,

(*a*) the towns of Almonte, Carleton Place, Perth;

(*b*) the separated Town of Smiths Falls;

(*c*) the Village of Lanark;

(*d*) the townships of,

Bathurst,
Beckwith,
Dalhousie and North Sherbrooke,
Darling,
Drummond,
Lanark,
Lavant,
Montague,
North Burgess,
North Elmsley,
Pakenham,
Ramsay,
South Sherbrooke.

19.—THE COUNTY OF LEEDS

Leeds

consists of,

(*a*) the City of Brockville;

(*b*) the separated town of Gananoque;

(*c*) the villages of Athens, Newboro', Westport;

(*d*) the townships of,

Bastard and South Burgess,
Elizabethtown,
Front of Escott,
Front of Leeds and Lansdowne,
Front of Yonge,
Kitley,
North Crosby,
Rear of Leeds and Lansdowne,
Rear of Yonge and Escott,
South Crosby,
South Elmsley.

20.—THE COUNTY OF LENNOX AND ADDINGTON

Lennox and Addington

consists of,

(*a*) the Town of Napanee;

(*b*) the villages of Bath, Newburgh;

(c) the townships of,

Adolphustown,	Kaladar, Anglesea and Effingham,
Amherst Island,	North Fredericksburgh,
Camden East,	Richmond,
Denbigh, Abinger and Ashby,	Sheffield,
Ernestown,	South Fredericksburgh.

Middlesex

21.—THE COUNTY OF MIDDLESEX

consists of,

(a) the City of London;

(b) the towns of Parkhill, Strathroy;

(c) the villages of Ailsa Craig, Glencoe, Lucan, Newbury, Wardsville;

(d) the townships of,

Adelaide,	McGillivray,
Biddulph,	Metcalfe,
Caradoc,	Mosa,
Delaware,	North Dorchester,
East Williams,	Westminster,
Ekfrid,	West Nissouri,
Lobo,	West Williams.
London,	

Niagara

22.—THE REGIONAL MUNICIPALITY OF NIAGARA

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Niagara Act.*

R.S.O. 1970, c. 406

Norfolk

23.—THE COUNTY OF NORFOLK

consists of,

(a) the towns of Delhi, Port Dover, Simcoe, Waterford;

(b) the Village of Port Rowan;

(c) the townships of,

Charlotteville,	South Walsingham,
Houghton,	Townsend,
Middleton,	Windham,
North Walsingham,	Woodhouse.

24.—THE COUNTY OF NORTHUMBERLAND

Northumberland

consists of,

(*a*) the towns of Campbellford, Coburg;

(*b*) the villages of Brighton, Colborne, Hastings;

(*c*) the townships of,

Alnwick,
Brighton,
Cramahe,
Haldimand,
Hamilton,
Murray,
Percy,
Seymour,
South Monaghan.

25.—THE COUNTY OF ONTARIO

Ontario

consists of,

(*a*) the City of Oshawa;

(*b*) the towns of Ajax, Uxbridge, Whitby;

(*c*) the villages of Beaverton, Cannington, Pickering, Port Perry;

(*d*) the townships of,

Brock,
East Whitby,
Mara,
Pickering,
Rama,
Reach,
Scott,
Scugog,
Thorah (including Canise or Thorah Island),
Uxbridge,

26.—THE REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

Ottawa-Carleton

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of Ottawa-Carleton Act*.

R.S.O. 1970, c. 407

27.—THE COUNTY OF OXFORD

Oxford

consists of,

(*a*) the City of Woodstock;

(*b*) the Town of Tillsonburg;

(*c*) the separated Town of Ingersoll;

(*d*) the villages of Beachville, Embro, Norwich, Tavistock;

(*e*) the townships of,

Blandford,	North Norwich,
Blenheim,	North Oxford,
Dereham,	South Norwich,
East Nissouri,	West Oxford,
East Oxford,	West Zorra.
East Zorra,	

Peel

28.—THE COUNTY OF PEEL

consists of,

(*a*) the towns of Brampton, Mississauga, Port Credit, Streetsville;

(*b*) the villages of Bolton, Caledon East;

(*c*) the townships of,

Albion,	Chinguacousy,
Caledon,	Toronto Gore.

Perth

29.—THE COUNTY OF PERTH

consists of,

(*a*) the City of Stratford;

(*b*) the towns of Listowel, Mitchell;

(*c*) the separated Town of St. Marys;

(*d*) the Village of Milverton;

(*e*) the townships of,

Blanshard,	Hibbert,
Downie (including the Gore of Downie),	Logan,
	Mornington,
Ellice,	North Easthope,
Elma,	South Easthope,
Fullarton,	Wallace.

Peterborough

30.—THE COUNTY OF PETERBOROUGH

consists of,

(*a*) the City of Peterborough;

(*b*) the villages of Havelock, Lakefield, Norwood;

(*c*) the townships of,

Asphodel,
Belmont and Methuen,
Burleigh and Anstruther,
Chandos,
Douro,
Dummer,
Ennismore,
Galway and Cavendish,
Harvey,
North Monaghan,
Otonabee,
Smith.

31.—THE COUNTY OF PRESCOTT

Prescott

consists of,

(*a*) the towns of Hawkesbury, Vankleek Hill;

(*b*) the villages of Alfred, L'Orignal, Plantagenet, St. Isidore de Prescott;

(*c*) the townships of,

Alfred,
Caledonia,
East Hawkesbury,
Longueuil,
North Plantagenet,
South Plantagenet,
West Hawkesbury.

32.—THE COUNTY OF PRINCE EDWARD

Prince Edward

consists of,

(*a*) the Town of Picton;

(*b*) the villages of Bloomfield, Wellington;

(*c*) the townships of,

Ameliasburgh,
Athol,
Hallowell,
Hillier,
North Marysburgh,
Sophiasburgh,
South Marysburgh.

33.—THE COUNTY OF RENFREW

Renfrew

consists of,

(*a*) the City of Pembroke;

(*b*) the towns of Arnprior, Deep River, Renfrew;

(*c*) the villages of Barry's Bay, Beachburg, Braeside, Chalk River, Cobden, Eganville, Killaloe Station, Petawawa;

(*d*) the townships of,

Admaston,
Alice and Fraser,
Bagot and Blithfield,
Bromley,
Brougham,
Brudenell and Lyndoch,
Grattan,
Griffith and Matawatchan,
Hagarty and Richards,
Head, Clara and Maria,
Horton,
McNab,
North Algona,
Pembroke,
Petawawa,
Radcliffe,
Raglan,
Rolph, Buchanan, Wylie and McKay,
Ross,
Sebastopol,
Sherwood, Jones and Burns,
South Algona,
Stafford,
Westmeath,
Wilberforce.

Russell

34.—THE COUNTY OF RUSSELL

consists of,

(*a*) the Town of Rockland;

(*b*) the Village of Casselman;

(*c*) the townships of,

Cambridge,
Clarence,
Russell.

Simcoe

35.—THE COUNTY OF SIMCOE

consists of,

(*a*) the cities of Barrie and Orillia;

(*b*) the towns of Alliston, Bradford, Collingwood, Midland, Penetanguishene, Stayner;

(*c*) the villages of Beeton, Coldwater, Cookstown, Creemore, Elmvale, Port McNicoll, Tottenham, Victoria Harbour, Wasaga Beach;

(*d*) the townships of,

Adjala,
Essa,
Flos,
Innisfil,
Matchedash,
Medonte,
Nottawasaga,
Orillia,
Oro,
Sunnidale,
Tay,
Tecumseth,
Tiny,
Tosorontio,
Vespra,
West Gwillimbury.

36.—THE COUNTY OF STORMONT

Stormont

consists of,

(*a*) the City of Cornwall;

(*b*) the Village of Finch;

(*c*) the townships of,

Cornwall,
Finch,
Osnabruck,
Roxborough.

37.—THE MUNICIPALITY OF METROPOLITAN TORONTO

Toronto

consists of the municipalities from time to time included within the Metropolitan Area as defined in *The Municipality of Metropolitan Toronto Act*.

R.S.O. 1970, c. 295

38.—THE COUNTY OF VICTORIA

Victoria

consists of,

(*a*) the Town of Lindsay;

(*b*) the villages of Bobcaygeon, Fenelon Falls, Omemee, Sturgeon Point, Woodville;

(*c*) the townships of,

Bexley,
Carden,
Dalton,
Eldon,
Emily,
Fenelon,
Laxton, Digby and Longford,
Mariposa,
Ops,
Somerville,
Verulam.

39.—THE COUNTY OF WATERLOO

Waterloo

consists of,

(*a*) the cities of Galt, Kitchener, Waterloo;

(*b*) the towns of Elmira, Hespeler, New Hamburg, Preston;

(*c*) the villages of Ayr, Bridgeport, Wellesley;

(*d*) the townships of,

North Dumfries,
Waterloo,
Wellesley,
Wilmot,
Woolwich.

Wellington

40.—THE COUNTY OF WELLINGTON

consists of,

(*a*) the City of Guelph;

(*b*) the towns of Fergus, Harriston, Mount Forest, Palmerston;

(*c*) the villages of Arthur, Clifford, Drayton, Elora, Erin;

(*d*) the townships of,

Arthur,	Nichol,
Eramosa,	Peel,
Erin,	Pilkington,
Guelph,	Puslinch,
Maryborough,	West Garafraxa,
Minto,	West Luther.

Wentworth

41.—THE COUNTY OF WENTWORTH

consists of,

(*a*) the City of Hamilton;

(*b*) the towns of Dundas, Stoney Creek;

(*c*) the Village of Waterdown;

(*d*) the townships of,

Ancaster,	Glanford,
Beverly,	Saltfleet,
Binbrook,	West Flamborough.
East Flamborough,	

York

42.—THE REGIONAL MUNICIPALITY OF YORK

consists of the municipalities from time to time included within the Regional Area as defined in *The Regional Municipality of York Act*.

R.S.O. 1970, c. 408

Haliburton

43.—THE PROVISIONAL COUNTY OF HALIBURTON

consists of,

(*a*) the Improvement District of Bicroft;

(*b*) the townships of,

Anson, Hindon and Minden,
Cardiff,
Dysart, Bruton, Clyde, Dudley, Eyre, Guilford, Harburn, Harcourt and Havelock,
Glamorgan,
Lutterworth,
Monmouth,
Sherborne, McClintock and Livingstone,
Snowdon,
Stanhope.

[NOTE: *As to judicial purposes see The Haliburton Act*, R.S.O. 1970, c. 198.]

44.—THE TERRITORIAL DISTRICT OF ALGOMA Algoma

consists of,

(*a*) the City of Sault Ste. Marie;

(*b*) the towns of Blind River, Bruce Mines, Thessalon;

(*c*) the villages of Hilton Beach, Iron Bridge;

(*d*) the geographic townships of,

A,
Abbott,
Aberdeen,
Aberdeen Additional,
Abigo,
Acton,
Alderson,
Allenby,
Amik,
Amundsen,
Anderson,
Archibald,
Arnott,
Awenge,
Aweres,
B,
Bayfield,
Beaton,
Bourinot,
Breckenridge,
Bridgland,
Bright,
Bright Additional,
Buchan,
Byng,
C,
Carney,
Challener,
Champlain,
Chelsea,
Chesley,
Chesley Additional,
Cholette,
Clouston,
Cobden,
Coderre,
Common,
Concobar,
Conking,
Cooper,
Cromlech,
Cross,
Cudney,
Curtis,
D,
Davin,
Day,
Deagle,
Dennis,
Deroche,
Derry,
Doherty,
Doucett,
Downer,
Dowsley,
Drew,
Duncan,
E,
Ebbs,
Elgie,
Ericson,
Ermine,
Esten,
F,
Farquhar,
Fenwick,
Fisher,
Flanders,
Foch,
Frances,
Franz,
Frost,
G,
Galbraith,
Gaudette,
Gillmor,
Gladstone,
Glasgow,
Gould,
Gourlay,
Grasett,
H,
Haig,
Hambleton,
Haughton,
Havilland,

Hawkins,
Hayward,
Herrick,
Hiawatha,
Hilton,
Hodgins,
Home,
Hook,
Hunt,
I,
Irving,
J,
Jarvis,
Jocelyn,
Johns,
Johnson,
K,
Kapuskasing,
Kars,
Kehoe,
Kildare,
Kincaid,
Kirkwall,
Kirkwood,
Korah,
L,
Laird,
Larkin,
Lascelles,
Lefroy,
Legge,
Lerwick,
Lessard,
Lewis,
Ley,
Lipton,
Lizar,
Long,
Lougheed,
M,
Macdonald,
Mack,
Magone,
Makawa,
Marjorie,
Marne,
Martin,
Matthews,
Maude,
McEwing,
McFarlan,
McGiverin,
McMahon,
Meath,
Mercer,
Meredith,
Mildred,
Minnipuka,
Mons,
Montgomery,
Moorehouse,
Morin,
Mosambik,
N,
Nagagami,
Nameigos,
Nebotik,
Newlands,
O,
Odlum,
Opasatika,
Oscar,
Otter,
P,
Palmer,
Parke,
Parkinson,
Patton,
Pearkes,
Pelletier,
Pennefather,
Plummer,
Plummer Additional,
Prince,
Proctor,
Puskuta,
Q,
R,
Radisson,
Roche,
Rose,
Ryan,
S,
St. Joseph,
St. Julien,
Scarfe,
Scholfield,
Shanly,
Shedden,
Shields,
Simpson,
Spragge,
Stefansson,
Strickland,
Striker,
T,
Talbott,
Tarbutt,
Tarbutt Additional,
Tarentorus,
Tedder,
Templeton,
Tennyson,
Thessalon,
Thompson,
Tilley,
Tilston,
Tupper,
U,
Usnac,
V,
VanKoughnet,
W,
Walls,
Wells,
Welsh,
Whitman,
Wicksteed,
Winget,
Woolrich,
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Tp. 27, Range 14,	Tp. 28, Range 27,	Tp. 31, Range 18,
Tp. 27, Range 16,	Tp. 29, Range 14,	Tp. 31, Range 19,
Tp. 27, Range 17,	Tp. 29, Range 15,	Tp. 31, Range 20,
Tp. 27, Range 18,	Tp. 29, Range 16,	Tp. 31, Range 21,
Tp. 27, Range 19,	Tp. 29, Range 17,	Tp. 31, Range 22,
Tp. 27, Range 20,	Tp. 29, Range 18,	Tp. 31, Range 23,
Tp. 27, Range 21,	Tp. 29, Range 19,	Tp. 31, Range 24,
Tp. 27, Range 22,	Tp. 29, Range 20,	Tp. 31, Range 25,
Tp. 27, Range 23,	Tp. 29, Range 21,	Tp. 31, Range 26,
Tp. 27, Range 24,	Tp. 29, Range 22,	Tp. 31, Range 27,
Tp. 27, Range 25,	Tp. 29, Range 23,	Tp. 32, Range 23,
Tp. 27, Range 26,	Tp. 29, Range 24,	Tp. 32, Range 24,
Tp. 28, Range 13,	Tp. 29, Range 25,	Tp. 32, Range 25,
Tp. 28, Range 14,	Tp. 29, Range 26,	Tp. 32, Range 26,
Tp. 28, Range 15,	Tp. 29, Range 27,	Tp. 32, Range 27,
Tp. 28, Range 16,	Tp. 30, Range 17,	Tp. 32, Range 28,
Tp. 28, Range 17,	Tp. 30, Range 18,	Tp. 33, Range 23,
Tp. 28, Range 18,	Tp. 30, Range 19,	Tp. 33, Range 24,
Tp. 28, Range 19,	Tp. 30, Range 20,	Tp. 33, Range 25,
Tp. 28, Range 20,	Tp. 30, Range 21,	Tp. 33, Addi-
Tp. 28, Range 21,	Tp. 30, Range 22,	tional, Range 25,
Tp. 28, Range 22,	Tp. 30, Range 23,	Tp. 33, Range 26,
Tp. 28, Range 23,	Tp. 30, Range 24,	Tp. 33, Addi-
Tp. 28, Range 24,	Tp. 30, Range 25,	tional, Range 26,
Tp. 28, Range 25,	Tp. 30, Range 26,	Tp. 33, Range 27,
Tp. 28, Range 26,	Tp. 30, Range 27,	Tp. 33, Range 28,

together with all the remaining territory included within the following limits:

Commencing at the northwest corner of the Township of Downer; thence south along the west boundaries of the townships of Downer, Frances, Flanders, Foch, Drew, Welsh, Magone, Johns, Common, Hunt, and townships 65, 33 Range 28, 33 Range 27, 33 Range 26, 33 Range 25, 33 Range 24, and 33 Range 23 to the high-water mark of Lake Superior; thence south astronomically to the intersection with the International Boundary between Canada and the United States of America; thence southeasterly and easterly following the International Boundary through Lake Superior, the St. Marys River and the expansions thereof, and the North Channel of Lake Huron to an angle in the said boundary lying between Cockburn Island and Drummond Island; thence easterly in a straight line through the North Channel of Lake Huron to a point distant one and one-half miles measured south astronomically from the southwesterly extremity of Kenny Point on Innes Island; thence north 55° east astronomically five miles; thence east astronomically three miles; thence south 36° east astronomically five and one-half miles; thence northeasterly in a straight line to the intersection of the water's edge of the North Channel of Lake Huron with the southerly production of the west

boundary of the Township of Harrow; thence northerly along the said southerly production and the west boundary of the Township of Harrow to the southeast corner of the Township of Salter; thence westerly, southerly and westerly along the south boundary of the Township of Salter to the southeast corner of the Township of Victoria; thence westerly along the south boundary of the Township of Victoria to the southwest corner thereof; thence north along the west boundary of the Township of Victoria to the southwest corner of Township 129; thence east along the south boundary of the said township to the southwest corner of the Township of Tennyson; thence east along the south boundary of the Township of Tennyson to the southeast corner of the said township; thence north along the east boundaries of the townships of Tennyson, 123, 124, and 125 to the intersection with the south boundary of Township A; thence east along that south boundary to the southeast corner thereof; thence north along the east boundaries of townships A, B, C, and D to the northeast corner of the last-mentioned township; thence west along the north boundaries of townships D, H, L, P, and T to the southeast corner of Township Y; thence north along the west boundaries of townships Y, Z, and 7Z to the northeast corner of the last-mentioned township; thence west along the north boundaries of townships 7Z, 7A, 7B, 7C, 7D, 7E, 7F, 7G, 7H, 22 Range 14 and 23 Range 14 to the intersection with the east boundary of Township 24 Range 15; thence north along the east boundaries of townships 24 Range 15, 24 Range 16, 24 Range 17, 24 Range 18, 24 Range 19, 24 Range 20, 24 Range 21 and 24 Range 22, to the northeast corner of the last-mentioned township; thence west along the north boundary of Township 24 Range 22 to the southeast corner of Township 24 Range 23; thence north along the east boundaries of townships 24 Range 23, 24 Range 24, 43, 45, 46, and Meath to the intersection with the south boundary of the Township of Acton; thence east along the south boundaries of the townships of Acton, Winget, Amik, Abigo, Kildare, Lerwick, Kirkwall, Kapuskasing, and Lougheed to the southeast corner of the last-mentioned township; thence north along the east boundaries of the townships of Lougheed, Davin, Buchan, Allenby, Concobar, and Shanly to the northeast corner of the last-mentioned township; thence west along the north boundaries of the townships of Shanly, Bourinot, Opazatika, Abbott, Doherty and part of the Township of Pelletier, to the southeast corner of the Township of Scholfield; thence north along the east boundaries of the townships of Scholfield and Ebbs to the northeast corner of the last-emntioned township; thence west along the north boundaries of the townships of Ebbs, Templeton, McFarlan, and Dowsley to the southeast corner of the Township of McEwing; thence north along the east boundaries of the townships of McEwing and Arnott to the northeast corner of the last-mentioned township; thence west along the north boundaries of the

townships of Arnott, Cross, Mercer, and Downer to the point of commencement.

Provisional Judicial District of Algoma

The Territorial District of Algoma forms the Provisional Judicial District of Algoma.

Boundary line between municipalities of Johnson, etc., and Plummer defined

The westerly boundary of the Huron Copper Bay and Mining Company's location is and has always been since the 25th day of April, 1890, the true and correct boundary line between the municipalities of Johnson, Tarbutt and Tarbutt Additional and the municipality of Plummer Additional.

Cochrane

45.—THE TERRITORIAL DISTRICT OF COCHRANE

consists of,

(*a*) the towns of Cochrane, Hearst, Iroquois Falls, Kapuskasing, Smooth Rock Falls, Timmins;

(*b*) the geographic townships of,

Abbotsford,	Bond,	Carscallen,
Acres,	Bonis,	Carss,
Adair,	Bourassa,	Case,
Adanac,	Bowman,	Casgrain,
Agassiz,	Bowyer,	Casselman,
Agate,	Boyce,	Challies,
Aitken,	Boyle,	Chipman,
Alexandra,	Bradburn,	Clavet,
Amery,	Bradette,	Clay,
Ardagh,	Bradley,	Clergue,
Aubin,	Bragg,	Clive,
Auden,	Brain,	Clute,
Aurora,	Bristol,	Cockshutt,
Avon,	Brower,	Cody,
Bannerman,	Burrell,	Colquhoun,
Barker,	Burritt,	Cook,
Barlow,	Burstall,	Côté,
Barnet,	Byers,	Coulson,
Beardmore,	Caithness,	Crawford,
Beatty,	Calder,	Cumming,
Beck,	Calvert,	Currie,
Belford,	Canfield,	Dargavel,
Beniah,	Cargill,	Deloro,
Berry,	Carman,	Dempsay,
Bessborough,	Carmichael,	De Pencier,
Bicknell,	Carnegie,	Devitt,
Birdsall,	Caron,	Dokis,
Blakelock,	Carr,	Duff,
Blount,	Carroll,	Dundonald,

Dunsmore,
Dyer,
Ebbitt,
Ecclestone,
Edwards,
Egan,
Eilber,
Elliott,
Emerson,
Enid,
Evelyn,
Fauquier,
Fenton,
Fergus,
Findlay,
Fintry,
Fleck,
Ford,
Fortune,
Fournier,
Fox,
Frecheville,
Freele,
Fryatt,
Fushimi,
Gaby,
Galna,
Ganong,
Garden,
Gardiner,
Garrison,
Geary,
Gentles,
German,
Gill,
Glackmeyer,
Godfrey,
Goldwin,
Goodwin,
Gowan,
Greer,
Griffin,
Guibord,
Guilfoyle,
Gurney,
Habel,
Haggart,
Haight,
Hambly,
Hamlet,
Haney,
Hanlan,
Hanna,
Harewood,
Harker,
Harmon,
Heath,
Hecla,
Heighington,
Henderson,
Henley,
Hepburn,
Hicks,
Hillmer,
Hislop,
Hoblitzell,
Hobson,
Hogg,
Holloway,
Homuth,
Hopkins,
Horden,
Howells,
Hoyle,
Hurdman,
Hurtubise,
Idington,
Inglis,
Ireland,
Irish,
Jamieson,
Jessop,
Kendall,
Kendrey,
Kennedy,
Kenning,
Kerrs,
Kidd,
Kilmer,
Kineras,
Kingsmill,
Kipling,
Kirkland,
Knox,
Kohler,
Laidlaw,
Lamarche,
Lambert,
Lamplugh,
Landry,
Langemarck,
Laughton,
Leitch,
Lennox,
Lewers,
Lisgar,
Little,
Loveland,
Lowther,
Lucas,
Mabee,
Macdiarmid,
Machin,
Macklem,
Macvicar,
Magladery,
Mahaffy,
Maher,
Mahoney,
Mann,
Marathon,
Marceau,
Marriott,
Marven,
Massey,
Matheson,
Maund,
McAlpine,
McBrien,
McCann,
McCart,
McCausland,
McCoig,
McCool,
McCowan,
McCrea,
McCuaig,
McKnight,
McLeister,
McMillan,
McQuibban,
Menapia,
Mewhinney,
Michaud,
Milligan,
Moberly,
Montcalm,
Moody,
Moose,
Morrow,

Mortimer,
Mountjoy,
Mowbray,
Mulholland,
Mulloy,
Mulvey,
Munro,
Murphy,
Nansen,
Nassau,
Neely,
Nesbitt,
Nettleton,
Newman,
Newmarket,
Nixon,
Noseworthy,
Nova,
O'Brien,
Ogden,
Oke,
Ophir,
Orkney,
Ossin,
Ottaway,
Owens,
Parliament,
Parnell,
Parr,
Pearce,
Pickett,
Pinard,
Pitt,
Playfair,
Pliny,
Potter,
Poulett,
Prosser,
Purvis,
Pyne,
Rand,
Rapley,
Raven,
Raynar,
Reaume,
Reid,
Rickard,
Ritchie,
Robb,
Roebuck,
Rogers,
Rowlandson,
Rykert,
St. John,
St. Laurent,
Sanborn,
Sanderson,
Sangster,
Sankey,
Sargeant,
Scapa,
Scovil,
Seaton,
Seguin,
Selwyn,
Shackleton,
Shannon,
Shaw,
Shearer,
Sheldon,
Sheraton,
Sherring,
Shetland,
Shuel,
Singer,
Slack,
Stapells,
Staples,
Staunton,
Steele,
Stimson,
Stock,
Stoddard,
Storey,
Stoughton,
Strachan,
Stringer,
Studholme,
Sulman,
Sutcliffe,
Swanson,
Swartman,
Sweatman,
Sweet,
Sydere,
Syer,
Tannahill,
Taylor,
Teefy,
Teetzel,
Thackeray,
Thomas,
Thorburn,
Thorning,
Tisdale,
Tolmie,
Tomlinson,
Torrance,
Traill,
Tucker,
Tully,
Turnbull,
Tweed,
Valentine,
Verdun,
Wacousta,
Wadsworth,
Walker,
Warden,
Wark,
Watson,
Way,
Webster,
Weichel,
Wesley,
Whitesides,
Whitney,
Wilhelmina,
Wilkie,
Williamson,
Winnington,
Wright,

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Clavet; thence north along the west boundaries of the Townships

of Clavet and Boyce to the northwest corner of the last-mentioned Township; thence west along the south boundaries of the Townships of Henderson, Selwyn, Barlow, Goodwin, Chipman and Raynar to the southwest corner of the last-mentioned Township; thence north along the meridian run by O.L.S. Speight and van Nostrand in 1925 and its northerly production to the centre of the main channel of the Albany River; thence easterly, northerly and northeasterly along the centre of the main channel of the Albany River and the expansions thereof to the shore of James Bay; thence southeasterly, southerly, easterly and northeasterly along the shore of James Bay to its intersection with the Interprovincial Boundary between Ontario and Quebec; thence southerly along the said Interprovincial Boundary to the southeast corner of the Township of Dokis; thence west astronomically to the southwest corner of the Township of Whitesides; thence north along the west boundary of the Township of Whitesides to the northwest corner thereof; thence west astronomically to the southwest corner of the Township of Ossin; thence north astronomically to the northwest corner of the Township of Staples; thence west astronomically to the southwest corner of the Township of Caithness; thence north along the west boundaries of the Townships of Caithness and Orkney to the northwest corner of the Township of Orkney; thence west astronomically to the southwest corner of the Township of Langemarck; thence north astronomically along the west boundary of the Townships of Langemarck and Storey to the northwest corner of the last-mentioned Township; thence west astronomically to the southwest corner of the Township of Clavet, the point of commencement.

Provisional judicial District of Cochrane

The Territorial District of Cochrane forms the Provisional Judicial District of Cochrane.

Kenora

46.—THE TERRITORIAL DISTRICT OF KENORA

consists of,

(*a*) the towns of Dryden, Keewatin, Kenora, Sioux Lookout;

(*b*) the geographic townships of,

Aubrey,	Brownridge,	Devonshire,
Avery,	Buller,	Dewan,
Barrett,	Burk,	Docker,
Benedickson,	Cathcart,	Drayton,
Big Island,	Chartrand,	Drope,
Boys,	Code,	Echo,
Bradshaw,	Colenso,	Eton,
Breithaupt,	Corman,	Ewart,
Bridges,	Coyle,	Factor,
Britton,	Daniel,	Forgie,
Broderick,	Desmond,	Furniss,

Gidley,
Glass,
Godson,
Gour,
Grummett,
Gundy,
Hartman,
Haycock,
Hodgson,
Hyndman,
Ignace,
Ilsley,
Jackman,
Jaffray,
Jordan,
Kirkup,
Ladysmith,
Langton,
Laval,
le May,
Lomond,
MacFie,
MacNicol,
MacQuarrie,
Mafeking,
Malachi,
Manross,
McAree,
McGeorge,
McIlraith,
McMeekin,
McNevin,
Melgund,
Melick,
Mutrie,
Noyon,
Osaquan,
Pelican,
Pellatt,
Pettypiece,
Phillips,
Pickerel,
Redditt,
Redvers,
Revell,
Rice,
Rowell,
Rudd,
Rugby,
Sanford,
Satterly,
Skey,
Slaught,
Smellie,
Southworth,
Stokes,
Temple,
Tustin,
Tweedsmuir,
Umbach,
Van Horne,
Vermilion,
Vermilion Additional,
Wabigoon,
Wainwright,
Wauchope,
Webb,
Willingdon,
Work,
Zealand,

together with all the remaining territory included within the following limits:

Commencing at the 48th mile post on O.L.S. Niven's meridian line of 1890 in latitude 49° 0′ 6″ north; thence due west 89 miles, 71 chains, 7 links more or less to the 18th mile post on O.L.S. Alexander Niven's 6th meridian line; thence due north along the said meridian line 6 miles to the 24th mile post thereon; thence due west along O.L.S. Gillon's base line of 1919 to the southeast angle of the Township of Godson and continuing west along the south boundary of the Township of Godson to the east shore of Sabaskong Bay of Lake of the Woods; thence westerly and southwesterly along the south shore of the said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th degree parallel of north latitude; thence due west 15 miles more or less to the International Boundary between Canada and the United States of America; thence northerly and westerly along the International Boundary to the Interprovincial Boundary between Ontario and Manitoba; thence due north along the last-mentioned boundary to the middle of the main channel of the Winnipeg River; thence easterly upstream along the middle of the main channel of the Winnipeg and English Rivers and the lake expansions and along the middle of Lac Seul and Root River to the portage on the height of land; thence along the middle of the said portage to the

waters flowing into Lake St. Joseph; thence along the middle of the main channel of Lake St. Joseph to O.L.S. Dobie's meridian line run in 1919; thence due south along the said last-mentioned meridian line and along O.L.S. Niven's meridian line run in 1890 to the point of commencement; and

(*c*) the Patricia Portion which consists of the geographic townships of,

Agnew,	Costello,	McCullagh,
Baird,	Dent,	McDonough,
Ball,	Dome,	McNaughton,
Balmer,	Earngey,	Mitchell,
Bateman,	Fairlie,	Mulcahy,
Belanger,	Goodall,	Ponsford,
Birkett,	Graves,	Ranger,
Bowerman,	Heyson,	Shaver,
Byshe,	Honeywell,	Skinner,
Connell,	Killala,	Todd,
Corless,	Knott,	Willans,

together with all the remaining territory included within the following limits:

Commencing at the most northerly point of the westerly boundary of Ontario as determined by *The Canada (Ontario) Boundary Act*, 1889, Chapter 28 of the Statutes of 1889 of the United Kingdom (the said westerly boundary being the easterly boundary of Manitoba); thence continuing due north along the same meridian to the intersection thereof with the centre of the road allowance on the twelfth base line of the system of Dominion Land Surveys; thence northeasterly in a right line to the most eastern point of Island Lake, as fixed on the ground in the year 1930 by the erection of concrete monument number 295 of the Ontario-Manitoba Boundary survey and situated in about north latitude 53° 44′ 19″.42 and in about west longitude 93° 39′ 14″.91; thence northeasterly in a right line to a point twenty-one and four-tenths feet due west astronomic from the point where the eighty-ninth meridian of west longitude intersects the southern shore of Hudson Bay, as the latter point was fixed by the Geodetic Survey of Canada in the year 1929; thence easterly and southerly following the shore of the said Bay to the point where the northerly boundary of Ontario as established under the said Act intersects the shore of James Bay; thence westward along the said boundary as established by the said Act to the place of commencement. (*See 1912, c. 3 and 1950, c. 48*)

[NOTE: *As to provision for the administration of justice, registration of instruments, etc., in Patricia, see The Patricia Act, R.S.O. 1937, c. 5.*]

Provisional Judicial District of Kenora

The Territorial District of Kenora forms the Provisional Judicial District of Kenora.

Manitoulin

47.—THE TERRITORIAL DISTRICT OF MANITOULIN

consists of,

(*a*) the towns of Gore Bay, Little Current;

(*b*) the geographic townships of,

Allan,	Carlyle,	Killarney,
Assiginack,	Carnarvon,	Mills,
Barrie Island,	Cockburn Island,	Robinson,
Bidwell,	Dawson,	Rutherford,
Billings,	Gordon,	Sandfield,
Burpee,	Howland,	Sheguiandah,
Campbell,	Humboldt,	Tehkummah;

(*c*) the islands named,

Badgeley,	Great Cloche,	Sampson,
Bedford,	Green,	Squaw,
Burnt,	Heywood,	Strawberry,
Centre,	Hog,	Vankoughnet,
Clapperton,	Iroquois,	Vidal,
Club,	Little Cloche,	Wall,
Crescent,	Lonely,	Wardrope,
Duck,	Lucas,	Wells,
East Rous,	McGregor,	West Rous,
Fitzwilliam,	Philip Edward,	Yeo,
George,	Rabbit,	

together with all the remaining territory included within the following limits:

Commencing at the southeast corner of the Township of Humboldt; thence south astronomically forty miles; thence west astronomically to the International Boundary; thence northwesterly and northeasterly along the International Boundary to an angle therein in the North Channel of Lake Huron between Cockburn Island and Drummond Island; thence easterly in a straight line through the North Channel of Lake Huron to a point distant one and one-half miles south astronomically from the southwest extremity of Kenny Point of Innes Island; thence north 55° east astronomically five miles; thence east astronomically three miles; thence south 36° east astronomically five and one-half miles; thence northeasterly in a straight line to a point in the water's edge of the North Channel of Lake Huron at the intersection of the production southerly of the west boundary of the Township of Harrow; thence easterly and southerly following the water's edge of the said channel to the north boundary of the west part of the unsurrendered portion of the Whitefish River Indian Reserve No. 4; thence east along the said boundary and its production to the water's edge of the North Channel of Lake Huron; thence northerly, easterly and southerly following the

said water's edge to the north boundary of the Township of Killarney; thence east along the north boundaries of the Townships of Killarney and Carlyle to the northeast corner of the last-mentioned Township; thence south along the east boundary of the Township of Carlyle to the northwest corner of the Township of Humboldt; thence east along the north boundary of the said Township to the northeast corner thereof; thence south along the east boundary of the Township of Humboldt to the southeast corner thereof, the point of commencement.

The Territorial District of Manitoulin forms the Provisional Judicial District of Manitoulin. Provisional Judicial District of Manitoulin

48.—THE TERRITORIAL DISTRICT OF MUSKOKA Muskoka

consists of The District Municipality of Muskoka composed of the municipalities from time to time included within the District Area as defined in *The District Municipality of Muskoka Act*. R.S.O. 1970, c. 131

The District Municipality of Muskoka forms the Provisional Judicial District of Muskoka. Provisional Judicial District of Muskoka

49.—THE TERRITORIAL DISTRICT OF NIPISSING Nipissing

consists of,

(*a*) the City of North Bay;

(*b*) the towns of Bonfield, Cache Bay, Mattawa, Sturgeon Falls;

(*c*) the geographic townships of,

Airy,	Bower,	Crerar,
Anglin,	Boyd,	Cynthia,
Angus,	Briggs,	Dana,
Antoine,	Bronson,	Deacon,
Askin,	Burnaby,	Devine,
Aston,	Butler,	Dickens,
Badgerow,	Butt,	Dickson,
Ballantyne,	Caldwell,	East Ferris,
Banting,	Calvin,	Eddy,
Barron,	Cameron,	Edgar,
Bastedo,	Canisbay,	Eldridge,
Beaucage,	Canton,	Falconer,
Belfast,	Cassels,	Fell,
Bertram,	Chambers,	Field,
Best,	Charlton,	FitzGerald,
Biggar,	Chisholm,	Flett,
Bishop,	Clancy,	French,
Blyth,	Clarkson,	Freswick,
Bonfield,	Clement,	Garrow,
Boulter,	Commanda,	Gibbons,

Gladman,
Gooderham,
Grant,
Guthrie,
Hammell,
Hartle,
Hebert,
Hobbs,
Hugel,
Hunter,
Joan,
Jocko,
Kenny,
Kirkpatrick,
La Salle,
Latchford,
Lauder,
Law,
Le Roche,
Lister,
Lockhart,
Loudon,
Lyell,
Lyman,
Macpherson,
Master,
Mattawan,
McAuslan,
McCallum,
McCraney,
McLaren,
McLaughlin,
McWilliams,
Merrick,
Milne,
Mulock,
Murchison,
Niven,
Notman,
Olive,
Olrig,
Osborne,
Osler,
Papineau,
Pardo,
Parkman,
Paxton,
Peck,
Pedley,
Pentland,
Phelps,
Phyllis,
Poitras,
Preston,
Riddell,
Sabine,
Scholes,
Sisk,
Springer,
Sproule,
Stewart,
Strathcona,
Strathy,
Stratton,
Thistle,
Torrington,
Vogt,
West Ferris,
White,
Widdifield,
Wilkes,
Wyse,
Yates,

together with that part of the geographic township of Finlayson not included in The District Municipality of Muskoka and all the remaining territory included within the following limits:

Commencing at the southeast corner of the Township of Falconer; thence west along the south boundary of the said township to the southwest corner thereof; thence north along the west boundaries of the townships of Falconer, Loudon, and Macpherson to the northwest corner of the last-mentioned township; thence east along the north boundary of the Township of Macpherson to the southwest corner of the Township of Kirkpatrick; thence north along the west boundaries of the townships of Kirkpatrick, Hugel, Crerar, Dana, Pardo, Clement, Scholes, and Belfast, to the northwest corner of the last-mentioned township; thence east along the north boundary of the Township of Belfast to the southwest corner of the Township of Le Roche; thence north along the west boundaries of the townships of Le Roche and Canton to the northwest corner of the last-mentioned township; thence east along the north boundaries of the townships of Canton, Aston, Banting and Best in the Territorial District of Nipissing to the southeast corner of the Township of Brigstocke in the Territorial District of Timiskaming; thence southeasterly along the southwesterly boundary of the Township of Gillies Limit to the most southerly corner of the

last-mentioned township; thence northeasterly along the southeasterly boundary of the last-mentioned township to the east boundary of the Township of Best in the Territorial District of Nipissing; thence south along the east boundaries of the townships of Best and Cassels to the southeast corner of the last-mentioned township; thence east along the north boundaries of the townships of Eldridge and Hebert and the production easterly of the north boundary of the Township of Hebert to the Interprovincial Boundary between Ontario and Quebec in Lake Timiskaming; thence in a southeasterly direction along the said Interprovincial Boundary to the intersection with the production northeasterly of the easterly boundary of the Township of Cameron; thence southerly along the said production and the easterly boundaries of the townships of Cameron and Deacon to the northwesterly corner of the Township of FitzGerald; thence easterly along the northerly boundary of the Township of FitzGerald to the northeasterly corner thereof; thence southerly along the easterly boundary of the Township of FitzGerald to the northwesterly corner of the Township of Edgar; thence easterly along the northerly boundary of the Township of Edgar to the northeasterly corner thereof; thence southerly along the easterly boundary of the Township of Edgar to the northwesterly corner of the Township of Bronson; thence easterly along the northerly boundary of the Township of Bronson to the northeasterly corner thereof; thence southerly along the easterly boundaries of the townships of Bronson, Stratton, and Master to the southeasterly corner of the last-mentioned township; thence westerly along the southerly boundaries of the townships of Master and Guthrie to the northeasterly corner of the Township of Dickens; thence southerly along the easterly boundary of the Township of Dickens to the southeasterly corner thereof; thence westerly along the southerly boundary of the Township of Dickens to the northeasterly corner of the Township of Lyell; thence southerly along the easterly boundary of the Township of Lyell to the southeasterly corner thereof; thence westerly along the southerly boundaries of the townships of Lyell and Sabine to the southwesterly corner of the last-mentioned township; thence northerly along the westerly boundaries of the townships of Sabine and Airy to the northwesterly corner of the last-mentioned township; thence westerly along the southerly boundaries of the townships of Sproule, Canisbay, Peck and Finlayson to the southwesterly corner of the last-mentioned township; thence northerly along the westerly boundary of the Township of Finlayson to the northwesterly corner thereof; thence easterly along the northerly boundary of the Township of Finlayson in the Territorial District of Nipissing to the southeast corner of the Township of Bethune in the Territorial District of Parry Sound; thence northerly along the westerly boundaries of the townships of McCraney, Butt, Paxton, and Ballantyne in the Territorial District of Nipissing to the northwesterly corner of the last-mentioned township; thence easterly along the northerly

boundary of the Township of Ballantyne to the southwesterly corner of the Township of Chisholm; thence northerly along the westerly boundaries of the townships of Chisholm and East Ferris to the southerly boundary of the Township of West Ferris; thence westerly along the southerly boundary of the Township of West Ferris to the water's edge of Lake Nipissing; thence westerly in a straight line across Lake Nipissing to a point in the middle of the Main Channel of the French River lying south of and off the most easterly extremity of Blueberry Island; thence southwesterly along the centre line of the Main Channel of the French River to its confluence with the centre line of Little French River lying north of Okikendawt Island; thence in a westerly, southeasterly and southwesterly direction following the said centre line of the Little French River to the intersection with the production easterly of the south boundary of the Township of Latchford; thence westerly along the said production and the south boundary of the Township of Latchford to the point of commencement.

Provisional Judicial District of Nipissing

The Territorial District of Nipissing forms the Provisional Judicial District of Nipissing.

Parry Sound

50.—THE TERRITORIAL DISTRICT OF PARRY SOUND

consists of,

(*a*) the towns of Kearney, Parry Sound, Powassan, Trout Creek;

(*b*) the villages of Burk's Falls, Magnetawan, Rosseau, South River, Sundridge;

(*c*) the geographic townships of,

Armour,	Gurd,	Monteith,
Bethune,	Hagerman,	Mowatt,
Blair,	Hardy,	Nipissing,
Brown,	Harrison,	North Himsworth,
Burton,	Henvey,	Patterson,
Carling,	Humphrey,	Perry,
Chapman,	Joly,	Pringle,
Christie,	Laurier,	Proudfoot,
Conger,	Lount,	Ryerson,
Cowper,	Machar,	Shawanaga,
Croft,	McConkey,	South Himsworth,
East Burpee,	McDougall,	Spence,
East Mills,	McKellar,	Strong,
Ferguson,	McKenzie,	Wallbridge,
Ferrie,	McMurrich,	Wilson,
Foley,		

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Conger; thence easterly along the southerly boundaries of the Townships of Conger and Humphrey to the southeast corner of the Township of Humphrey; thence northerly along the easterly boundary of the Township of Humphrey to the northeast corner of the said Township; thence easterly along the southerly boundaries of the Townships of Monteith, McMurrich, Perry and Bethune to the southeast corner of the last-mentioned Township; thence northerly along the easterly boundaries of the Townships of Bethune, Proudfoot, Joly and Laurier to the northeast angle of the last-mentioned Township; thence easterly along the southerly boundary of the Township of South Himsworth to the southeast angle thereof; thence northerly along the easterly boundaries of the Townships of North Himsworth and South Himsworth to the northeast angle of the last-mentioned Township; thence westerly along the northerly boundary of the Township of North Himsworth to the water's edge of Lake Nipissing; thence westerly across Lake Nipissing in a straight line to a point in the centre of the main channel of the French River south of and off the easterly end of Blueberry Island; thence southwesterly along the centre lines of the main channel of the French River and that channel of the French River to the north of Okikendawt Island and along that channel of the French River that lies adjacent to the south boundaries of the Townships of Scollard, Mason, Bigwood, Allen and Struthers to the southerly production of the east boundary of the Township of Travers; thence north along said production to the water's edge of the said channel; thence southwesterly, westerly and southwesterly following the water's edge of the said channel and the water's edge of Georgian Bay of Lake Huron to the west boundary of the Township of Travers; thence easterly and southerly along the northerly and easterly shores of Georgian Bay to the southwest angle of the Township of Conger, the point of commencement, and including all islands lying opposite to the said northerly and easterly shores of Georgian Bay.

The Territorial District of Parry Sound forms the Provisional Judicial District of Parry Sound. Provisional Judicial District of Parry Sound

51.—THE TERRITORIAL DISTRICT OF RAINY RIVER Rainy River

consists of,

(*a*) the towns of Fort Frances, Rainy River;

(*b*) the geographic townships of,

Asmussen,	Aylsworth,	Barwick,
Atwood,	Baker,	Bennett,

Blue,	Kingsford,	Richardson,
Burriss,	Lash,	Roddick,
Carpenter,	Mather,	Roseberry,
Claxton,	Mathieu,	Rowe,
Croome,	McCaul,	Schwenger,
Crozier,	McCrosson,	Senn,
Curran,	McIrvine,	Shenston,
Dance,	McLarty,	Sifton,
Devlin,	Menary,	Spohn,
Dewart,	Miscampbell,	Sutherland,
Dilke,	Morley,	Tait,
Dobie,	Morley Additional,	Tanner,
Farrington,	Morson,	Tovell,
Fleming,	Nelles,	Trottier,
Freeborn,	Pattullo,	Watten,
Griesinger,	Potts,	Weaver,
Halkirk,	Pratt,	Woodyatt,
Hutchinson,	Ramsay Wright,	Worthington,

together with all the remaining territory included within the following limits:

Commencing where the westerly boundary of the District of Thunder Bay intersects the International Boundary between Canada and the United States of America in Saganaga Lake; thence due north along the said district boundary to the 48th mile post thereon in latitude 49° 0′ 6″ north; thence due west 89 miles, 71 chains, 7 links, more or less to the 18th mile post on O.L.S. Alexander Niven's 6th meridian line; thence due north along the said meridian line 6 miles to the 24th mile post thereon; thence due west along O.L.S. Gillon's base line of 1919 to the northeast angle of the Township of McLarty and continuing west along the north boundaries of the Townships of McLarty and Claxton and the westerly production thereof to the east shore of Sabaskong Bay of the Lake of the Woods; thence westerly and southwesterly along the south shore of the said bay and along the east shore of the Lake of the Woods to where the same is intersected by the 49th degree parallel of north latitude; thence due west 15 miles more or less to the International Boundary; thence southerly along the International Boundary to the mouth of the Rainy River; thence southeasterly and easterly up the Rainy River along the International Boundary to Rainy Lake; thence easterly, southerly and southeasterly following the International Boundary through Rainy Lake and the several lakes, rivers and portages along the International Boundary, to the place of beginning.

Provisional Judicial District of Rainy River

The Territorial District of Rainy River forms the Provisional Judicial District of Rainy River.

52.—THE TERRITORIAL DISTRICT OF SUDBURY Sudbury

consists of,

(*a*) the City of Sudbury;

(*b*) the towns of Capreol, Coniston, Copper Cliff, Espanola, Levack, Lively, Massey, Webbwood;

(*c*) the geographic townships of,

Abbey,
Abney,
Acadia,
Acheson,
Addison,
Admiral,
Afton,
Alcona,
Alcorn,
Allen,
Alton,
Amyot,
Antrim,
Appleby,
Arbutus,
Arden,
Armagh,
Asquith,
Athlone,
Attlee,
Awrey,
Aylmer,
Bader,
Baldwin,
Balfour,
Baltic,
Barclay,
Battersby,
Baynes,
Beaumont,
Beemer,
Benneweis,
Benton,
Beresford,
Beulah,
Bevin,
Bigelow,
Biggs,
Bigwood,
Biscotasi,
Blamey,
Blewett,
Blezard,
Bonar,
Borden,
Botha,
Bowell,
Brackin,
Breadner,
Brebeuf,
Broder,
Browning,
Brunswick,
Brutus,
Buckland,
Burrows,
Burwash,
Busby,
Cabot,
Caen,
Calais,
Capreol,
Carew,
Carter,
Cartier,
Carty,
Cascaden,
Casimir,
Cavell,
Ceylon,
Chalet,
Champagne,
Chapleau,
Chaplin,
Cherriman,
Chester,
Chewett,
Churchill,
Clary,
Cleland,
Clifton,
Cochrane,
Collins,
Collishaw,
Comox,
Connaught,
Coppell,
Copperfield,
Cortez,
Cosby,
Cosens,
Cotton,
Cox,
Craig,
Creelman,
Creighton,
Crockett,
Crothers
Cunningham,
Curtin,
Dale,
D'Arcy,
Davis,
de Gaulle,
Delamere,
Delhi,
Delmage,
DeMorest,
Denison,
Dennie,
Denyes,
DesRosiers,
Dieppe,
Dill,
Dore,
Dowling,
Drury,
Dryden,
Dublin,
Dunbar,
Dundee,
Dunlop,
Dunnet,

Durban,
Earl,
Eden,
Edinburgh,
Edith,
Eisenhower,
Elizabeth,
Ellis,
Emerald,
Emo,
English,
Eric,
Ermatinger,
Esther,
Ethel,
Evans,
Fairbairn,
Fairbank,
Falconbridge,
Faust,
Fawcett,
Fawn,
Fingal,
Floranna,
Foleyet,
Foster,
Foy,
Fraleck,
Frater,
Frechette,
Frey,
Fulton,
Gallagher,
Gamey,
Gardhouse,
Garibaldi,
Garnet,
Garson,
Garvey,
Genoa,
Gilbert,
Gladwin,
Goschen,
Gough,
Gouin,
Graham,
Greenlaw,
Grigg,
Groves,
Haddo,
Haentschel,
Hagar,
Halcrow,
Halifax,
Hall,
Hallam,
Halliday,
Halsey,
Hanmer,
Hardiman,
Harrow,
Hart,
Harty,
Hassard,
Hawley,
Hazen,
Heenan,
Hellyer,
Hendrie,
Hennessy,
Henry,
Hess,
Hill,
Hodgetts,
Hoey,
Hong Kong,
Hornell,
Horwood,
Hoskin,
Howey,
Hubbard,
Huffman,
Hutt,
Hutton,
Hyman,
Invergarry,
Inverness,
Iris,
Ivanhoe,
Ivy,
Jack,
Janes,
Jasper,
Jennings,
Joffre,
Keith,
Kelly,
Kelso,
Kelvin,
Kemp,
Kenogaming,
Kilpatrick,
Kitchener,
Lackner,
La Fleche,
Lampman,
Lang,
Laura,
Leask,
Leeson,
Leinster,
Lemoine,
Levack,
Lincoln,
Lipsett,
Lloyd,
Londonderry,
Lorne,
Loughrin,
Louise,
Lumsden,
Macbeth,
Mackelcan,
Maclennan,
Macmurchy,
Mageau,
Mallard,
Manning,
Marconi,
Margaret,
Marion,
Marquette,
Marshall,
Marshay,
Martland,
Mason,
Mattagami,
May,
McBride,
McCarthy,
McConnell,
McGee,
McKim,
McKinnon,
McLeod,
McNamara,
McNaught,
McNish,
McOwen,
McPhail,

Melrose,
Merritt,
Middleboro,
Miramichi,
Missinaibi,
Moffat,
Moher,
Moncrieff,
Mond,
Mongowin,
Morgan,
Morse,
Mountbatten,
Muldrew,
Munster,
Murdock,
Muskego,
Nairn,
Natal,
Neelon,
Neville,
Newton,
Nimitz,
Noble,
Norman,
Northrup,
Nursey,
Oates,
Ogilvie,
Onaping,
Oswald,
Osway,
Panet,
Parker,
Parkin,
Pattinson,
Paudash,
Paul,
Penhorwood,
Peters,
Pinogami,
Porter,
Potier,
Racine,
Ramsden,
Raney,
Rathbun,
Ratter,
Rayside,
Reeves,
Regan,
Rennie,
Rhodes,
Roberts,
Roblin,
Rollo,
Roosevelt,
Sadler,
St. Louis,
Sale,
Salter,
Sandy,
Scadding,
Scollard,
Scotia,
Seagram,
Secord,
Selby,
Selkirk,
Semple,
Servos,
Sewell,
Shakespeare,
Sheard,
Shelburne,
Shelley,
Shenango,
Sheppard,
Sherlock,
Silk,
Singapore,
Sladen,
Smuts,
Snider,
Somme,
Sothman,
Stalin,
Stetham,
Stobie,
Stover,
Stralak,
Strathearn,
Street,
Struthers,
Stull,
Swayze,
Sweeny,
Telfer,
Tilton,
Togo,
Tooms,
Topham,
Totten,
Travers,
Trill,
Triquet,
Truman,
Turner,
Tyrone,
Ulster,
Unwin,
Valin,
Vernon,
Victoria,
Vrooman,
Wakami,
Waldie,
Warren,
Waters,
Westbrook,
Whalen,
Whigham,
Wigle,
Wisner,
Yeo,
Zavitz,
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Tp. 7,
Tp. 8,
Tp. 8A,
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Tp. 8E,
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Tp. 9D,
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Tp. 9F,
Tp. 9G,
Tp. 9H,
Tp. 9Z,
Tp. 10A,
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Tp. 10C,
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Tp. 10E,
Tp. 10F,
Tp. 10G,
Tp. 10H,
Tp. 11B,
Tp. 11C,
Tp. 11D,
Tp. 11E,
Tp. 11F,
Tp. 11G,
Tp. 11H,
Tp. 12,
Tp. 12E,
Tp. 12F,
Tp. 12G,
Tp. 12H,
Tp. 13G,
Tp. 13H,
Tp. 19,
Tp. 22,
Tp. 22, Range 15,
Tp. 22, Range 16,
Tp. 22, Range 17,
Tp. 22, Range 18,
Tp. 22, Range 19,
Tp. 22, Range 20,
Tp. 23, Range 15,
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Tp. 23, Range 20,
Tp. 23, Range 23,
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Tp. 120,

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Harrow; thence north along the west boundary of the Township of Harrow to the southeast corner of the Township of Salter; thence westerly, southerly and westerly along the south boundary of the Township of Salter to the southwest corner thereof; thence westerly along the south boundary of the Township of Victoria to the southwest corner thereof; thence north along the west boundary of the Township of Victoria to the northwest corner thereof; thence east along the north boundary of the Township of Victoria to the northeast corner thereof; thence east along the north boundary of the Township of Salter to the southwest corner of the Township of Gough; thence north along the west boundaries of the townships of Gough, 118, 119, and 120 to the northwest corner of Township 120; thence east along the north boundary of the last-mentioned township to the southwest corner of Township 114; thence north along the west boundaries of townships 114, 115, Gilbert, and Dennie to the intersection with the south boundary of the Township of La Fleche; thence west along the south boundaries of the townships of La Fleche, Alton, Jasper, Durban, Ethel and Comox, to the southwest corner of the last-mentioned township; thence north along the west boundaries of the townships of Comox, Fulton, and Iris to the northwest corner of the last-mentioned township; thence west along the south boundaries of townships 8Z, 8A, 8B, 8C, 8D, 8E, 8F, 8G, 8H, 22 Range 15, and 23 Range 15 to the southwest corner of the last-mentioned township; thence north along the west boundaries of townships 23 Range 15, 23 Range 16, 23 Range 17, 23 Range 18, 23 Range 19, 23 Range 20, Topham, and Cosens to the intersection with the south boundary of Township 23 Range 23; thence

west along the said south boundary to the southwest corner thereof; thence north along the west boundaries of townships 23 Range 23, Hornell, Bader, 44, Stover, and Rennie to the northwest corner of the last-mentioned township; thence east along the north boundaries of the townships of Rennie, Leeson, Baltic, Barclay, Calais, Lloyd, Bonar, Sherlock, Shenango, Oates, Oswald, Melrose and Frey to the northeast corner of the last-mentioned township; thence south along the east boundaries of the townships of Frey, sewell, and Kenogaming to the northwest corner of the Township of Crothers; thence east along the north boundaries of the townships of Crothers, McBride, Hassard, Beemer, English, and Zavitz to the northeast corner of the last-mentioned township; thence south along the east boundaries of the townships of Zavitz, Hutt, Halliday, Mond, Natal, Macmurchy, Fawcett, Ogilvie, and Browning to the northwest corner of the Township of Stull; thence east along the north boundaries of the townships of Stull, McLeod, Ellis, Parker, Selby and Sladen to the northeast corner of the last-mentioned township; thence south along the east boundaries of the townships of Sladen, Shelburne, and Delhi to the southeast corner of the last-mentioned township; thence west along the south boundary of the Township of Delhi to the northeast corner of the Township of Armagh; thence south along the east boundaries of the townships of Armagh, Afton, Macbeth, McNish, Janes, Henry, Ratter, and Dunnet to the southeast corner of the last-mentioned township; thence west along the south boundary of the Township of Dunnet to the northeast corner of the Township of Casimir; thence south along the east boundaries of the townships of Casimir, Haddo, and Martland to the southeast corner of the last-mentioned township; thence east along the north boundary of the Township of Scollard and its easterly production to the centre line of the Little French River lying north of Okikendawt Island; thence southwesterly along the said centre line of the Little French River and the French River Main Channel adjacent to the south boundaries of the townships of Scollard, Mason, Bigwood, Allen and Struthers to the intersection with the southerly production of the east boundary of the Township of Travers; thence north along the said southerly production to the water's edge along the north shore of the said channel; thence southwesterly, westerly and southwesterly along the said water's edge and the water's edge of Georgian Bay to the intersection with the southerly production of the west boundary of the Township of Travers; thence north along the said southerly production and the west boundaries of the townships of Travers and Kilpatrick to the northwest corner of the last-mentioned township; thence west along the south boundary of the Township of Sale to the southwest corner thereof; thence north along the west boundary of the Township of Sale to the southeast corner of the Township of Goschen; thence west along the south boundaries of the townships of Goschen, Stalin, Roosevelt and Curtin, and the westerly production of the

south boundary of the last-mentioned township, to the water's edge of the North Channel of Lake Huron; thence northerly, westerly, and southerly following the said water's edge to its intersection with the easterly production of the north boundary of the west part of the unsurrendered portion of the Whitefish Indian Reserve Number 4; thence west along the said production and the said north boundary to the water's edge of the North Channel of Lake Huron; thence northerly and westerly along the said water's edge to its intersection with the southerly production of the west boundary of the Township of Harrow; thence north along the said production to the point of commencement.

Provisional Judicial District of Sudbury

The Territorial District of Sudbury forms the Provisional Judicial District of Sudbury.

Thunder Bay

53.—THE TERRITORIAL DISTRICT OF THUNDER BAY

consists of,

(*a*) the city of Thunder Bay;

(*b*) the Town of Geraldton;

(*c*) the geographic townships of,

Abrey,	Cockeram,	Flood,
Adamson,	Colliver,	Foote,
Adrian,	Colter,	Forbes,
Aldina,	Coltham,	Fowler,
Alpha,	Conacher,	Fraleigh,
Ames,	Conant,	Fulford,
Ashmore,	Conmee,	Furlonge,
Atikameg,	Croll,	Gemmell,
Bain,	Crooks,	Gertrude,
Barbara,	Daley,	Gibbard,
Bégin,	Danford,	Gillies,
Bell,	Davies,	Glen,
Benner,	Devon,	Goldie,
Bertrand,	Dorion,	Golding,
Bickle,	Dorothea,	Goodfellow,
Blackwell,	Duckworth,	Gorham,
Blake,	Dye,	Goulet,
Booth,	Elmhirst,	Graydon,
Boucher,	Errington,	Grenville,
Bryant,	Esnagami,	Gzowski,
Bulmer,	Eva,	Hagey,
Byron,	Exton,	Haines,
Cecil,	Fallis,	Hanniwell,
Cecile,	Fauteux,	Hardwick,
Chevrier,	Fernow,	Hartington,
Church,	Fletcher,	Heathcote,

Hele,
Herbert,
Hipel,
Hogarth,
Homer,
Horne,
Houck,
Innes,
Inwood,
Irwin,
Jacques,
Jean,
Joynt,
Jutten,
Kilkenny,
Kirby,
Kitto,
Klotz,
Knowles,
Kowkash,
Lamport,
Langworthy,
Lapierre,
Laurie,
Ledger,
Leduc,
Legault,
Leslie,
Lindsley,
Lismore,
Low,
Lybster,
Lyon,
MacGregor,
Manion,
Mapledoram,
Marks,
McComber,
McCubbin,
McGill,
McGillis,
McIntyre,
McIvor,
McKelvie,
McLaurin,
McMaster,
McQuesten,
McTavish,
Meader,
Meinzinger,
Michener,
Mikano,
Moss,
Nakina,
Neebing,
Nickle,
Nipigon,
Oakes,
Oboshkegan,
O'Connor,
Oliver,
O'Meara,
Paipoonge,
Pardee,
Parent,
Parry,
Patrick,
Pearson,
Pic,
Pifher,
Poisson,
Purdom,
Pyramid,
Rickaby,
Robbins,
Roberta,
Robson,
Rupert,
Sackville,
Salsberg,
Sandra,
Savanne,
Savant,
Scoble,
Shabotik,
Sibley,
Smye,
Soper,
Spooner,
Stedman,
Stirling,
Strange,
Summers,
Suni,
Trewartha,
Upsala,
Vincent,
Vivian,
Walters,
Wardrope,
Ware,
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Tp. 71,
Tp. 72,
Tp. 73,
Tp. 74,
Tp. 75,
Tp. 76,
Tp. 77,
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Tp. 79,
Tp. 80,
Tp. 81,
Tp. 82,
Tp. 83,
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together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of Clavet; thence south along O.L.S. Niven's meridian line of 1907 to the southerly extremity thereof; thence continuing south along O.L.S. Speight's meridian line of 1902 to the shore of Lake

Superior; thence south astronomically to the International Boundary; thence northwesterly, southwesterly and westerly following the International Boundary to a point in Saganaga Lake where the said boundary is intersected by the southerly production of O.L.S. Niven's meridian line of 1890; thence due north along the said production and continuing along O.L.S. Niven's meridian line of 1890 and the northerly production of the said line, as surveyed by O.L.S. Dobie in 1919 to the centre of the main channel of the waters of Lake St. Joseph; thence northeasterly along the centre of the main channel of Lake St. Joseph and the Albany River, and the expansions thereof, to the intersection of the northerly production of the meridian surveyed by O.L.S. Speight and van Nostrand in 1925; thence south along the said production and continuing along the meridian run by O.L.S. Speight and van Nostrand in 1925 to the northwest corner of the Township of Bain; thence east astronomically to the northeast corner of the Township of Bell; thence south along the western boundary of the Townships of Boyce and Clavet to the southwest corner of the Township of Clavet, the point of commencement.

Provisional Judicial District of Thunder Bay

The Territorial District of Thunder Bay forms the Provisional Judicial District of Thunder Bay.

Timiskaming

54.—THE TERRITORIAL DISTRICT OF TIMISKAMING

consists of,

(*a*) the towns of Charlton, Cobalt, Englehart, Haileybury, Latchford, New Liskeard;

(*b*) the Village of Thornloe;

(*c*) the geographic townships of,

Adams,	Bisley,	Charters,
Alma,	Black,	Childerhose,
Argyle,	Blackstock,	Chown,
Armstrong,	Blain,	Cleaver,
Arnold,	Bompas,	Clifford,
Auld,	Boston,	Cole,
Baden,	Brethour,	Coleman,
Banks,	Brewster,	Corkill,
Bannockburn,	Brigstocke,	Corley,
Barber,	Bryce,	Dack,
Barr,	Bucke,	Dane,
Bartlett,	Burt,	Davidson,
Bayly,	Cairo,	Denton,
Beauchamp,	Cane,	Donovan,
Ben Nevis,	Casey,	Doon,
Benoit,	Catharine,	Douglas,
Bernhardt,	Chamberlain,	Doyle,

Dufferin,
Dunmore,
Dymond,
Eby,
Eldorado,
Evanturel,
Fallon,
Farr,
Fasken,
Firstbrook,
Flavelle,
Fripp,
Gamble,
Gauthier,
Geikie,
Gillies Limit,
Grenfell,
Gross,
Harley,
Harris,
Haultain,
Hearst,
Henwood,
Hillary,
Hilliard,
Hincks,
Holmes,
Hudson,
Ingram,
James,
Katrine,
Keefer,
Kerns,
Kimberley,
Kittson,
Klock,
Knight,
Langmuir,
Lawson,
Lebel,
Leckie,
Lee,
Leith,
Leo,
Leonard,
Lorrain,
Lundy,
Maisonville,
Marquis,
Marter,
McArthur,
McElroy,
McEvay,
McFadden,
McGarry,
McGiffin,
McKeown,
McNeil,
McVittie,
Medina,
Melba,
Michie,
Mickle,
Midlothian,
Milner,
Montrose,
Morel,
Morrisette,
Mulligan,
Musgrove,
Nicol,
Nordica,
North Williams,
Ossian,
Otto,
Pacaud,
Pense,
Pharand,
Pontiac,
Powell,
Price,
Rankin,
Rattray,
Ray,
Raymond,
Reynolds,
Roadhouse,
Robertson,
Robillard,
Rorke,
Savard,
Sharpe,
Sheba,
Shillington,
Skead,
Smyth,
South Lorrain,
Speight,
Teck,
Terry,
Thorneloe,
Timmins,
Tolstoi,
Trethewey,
Truax,
Tudhope,
Tyrrell,
Van Hise,
van Nostrand,
Wallis,
Whitson,
Willet,
Willison,
Yarrow,

together with all the remaining territory included within the following limits:

Commencing at the southwest corner of the Township of South Lorrain; thence north along the west boundary of the last-mentioned township to the intersection with the southeasterly boundary of the Township of Gillies Limit; thence southwesterly along the southeasterly boundary of the last-mentioned township to the most southerly corner thereof; thence northwesterly along the southwesterly boundary of the last-mentioned township to the southeast corner of the Township of Brigstocke; thence west

along the south boundaries of the townships of Brigstocke, Cole and Medina to the southwest corner of the last-mentioned township; thence north along the west boundary of the Township of Medina to the northwest corner thereof; thence west along the south boundaries of the townships of Rorke, McGiffin, Gamble, Corley, Leckie, and Dufferin to the southwest corner of the last-mentioned township; thence north along the west boundaries of the townships of Dufferin, North Williams, Leonard, Tyrrell, Knight, Raymond, Midlothian, Montrose, and Hincks to the northwest corner of the last-mentioned township; thence west along the south boundaries of the townships of Geikie, Bartlett, Musgrove, Doyle, Childerhose, and Pharand to the southwest corner of the last-mentioned township; thence north along the west boundaries of the townships of Pharand, Hillary and Keefer to the northwest corner of the last-mentioned township; thence east along the north boundaries of the townships of Keefer, Denton, Thorneloe, Price, Adams, Eldorado, Langmuir, Blackstock, Timmins, McEvay, Tolstoi, Black, Benoit, Melba, Bisley, Clifford, Ben Nevis, and Pontiac to the Interprovincial Boundary between Ontario and Quebec; thence southerly along the said Interprovincial Boundary to the intersection with the production easterly of the south boundary of the Township of South Lorrain; thence west along the said easterly production and the south boundary of the Township of South Lorrain to the point of commencement.

Provisional Judicial District of Timiskaming

The Territorial District of Timiskaming forms the Provisional Judicial District of Timiskaming. R.S.O. 1960, c. 395, s. 1; 1964, c. 116, s. 1; 1966, c. 154, s. 1; 1967, c. 101, s. 1; 1968, c. 135, s. 1; 1968, c. 175, s. 1; 1968-69, c. 128, s. 1; 1970, c. 127, s. 1, *amended*.

Additional municipalities in territorial districts

2. In addition to the municipalities mentioned in section 1 as being included in the territorial districts, such districts also include the municipalities listed hereunder:

Algoma

1.—THE TERRITORIAL DISTRICT OF ALGOMA

includes,

(*a*) the Improvement District of White River;

(*b*) the townships of,

Day and Bright Additional,	Macdonald and Meredith,	Tarbutt and Tarbutt Additional,
Elliot Lake,	Michipicoten,	Thessalon,
Hilton,	Plummer Additional,	Thompson,
Jocelyn,	Prince,	Wicksteed.
Johnson,	St. Joseph,	
Laird,		

2.—THE TERRITORIAL DISTRICT OF COCHRANE Cochrane

includes,

(*a*) the Improvement District of Kingham (part);

(*b*) the townships of,

Black River-Matheson	Kendrey,	Shackleton and Machin,
Fauquier,	Mountjoy,	Tisdale,
Glackmeyer,	Playfair,	Whitney.

3.—THE TERRITORIAL DISTRICT OF KENORA Kenora

includes,

(*a*) the improvement districts of Balmertown, Barclay, Ear Falls, Sioux Narrows;

(*b*) the townships of,

Ignace,	Machin
Jaffray and Melick,	Red Lake.

4.—THE TERRITORIAL DISTRICT OF MANITOULIN Manitoulin

includes the townships of,

Assiginack,	Carnarvon,	Rutherford and George Island,
Barrie Island,	Cockburn Island,	Sandfield,
Billings,	Gordon,	Tehkummah.
Burpee,	Howland,	

5.—THE TERRITORIAL DISTRICT OF NIPISSING Nipissing

includes,

(*a*) the improvement districts of Cameron and Temagami;

(*b*) the townships of,

Airy	Chisholm,	Mattawan,
Bonfield,	East Ferris,	Papineau,
Caldwell,	Field,	Springer.
Calvin,		

6.—THE TERRITORIAL DISTRICT OF PARRY SOUND Parry Sound

includes the townships of,

Armour,	Christie,	Humphrey,
Carling,	Foley,	Joly,
Chapman,	Hagerman,	Machar,

McDougall,
McKellar,
McMurrich,
Nipissing,
North Himsworth,
Perry,
Ryerson,
South Himsworth,
Strong.

Rainy River

7.—THE TERRITORIAL DISTRICT OF RAINY RIVER

includes,

(*a*) the Improvement District of Kingsford;

(*b*) the townships of,

Alberton,
Atikokan,
Atwood,
Blue,
Chapple,
Dilke,
Emo,
La Vallee,
McCrosson and Tovell,
Morley,
Morson,
Worthington.

Sudbury

8.—THE TERRITORIAL DISTRICT OF SUDBURY

includes,

(*a*) the Improvement District of Onaping;

(*b*) the townships of,

Baldwin,
Balfour,
Casimir, Jennings and Appleby,
Chapleau,
Cosby, Mason and Martland,
Dowling,
Drury, Denison and Graham,
Falconbridge,
Hagar,
Hallam,
Nairn,
Neelon and Garson,
Ratter and Dunnet,
Rayside,
Salter, May and Harrow,
Valley East,
Waters.

Thunder Bay

9.—THE TERRITORIAL DISTRICT OF THUNDER BAY

includes,

(*a*) the improvement districts of Beardmore, Manitouwadge, Nakina, Red Rock;

(*b*) the townships of,

Conmee,
Dorion,
Gillies,
Longlac,
Marathon,
Neebing,
Nipigon,
O'Connor,
Oliver,
Paipoonge,
Schreiber,
Shuniah,
Terrace Bay.

10.—THE TERRITORIAL DISTRICT OF TIMISKAMING

Timiskaming

includes,

(*a*) the improvement districts of Gauthier, Kingham (part);

(*b*) the townships of,

Armstrong,	Dack,	Hudson,
Brethour,	Dymond,	James,
Casey,	Evanturel,	Kerns,
Chamberlain,	Harley,	Larder Lake,
Coleman,	Harris,	McGarry,
	Hilliard,	Teck.

R.S.O. 1960, c. 395, s. 2; 1964, c. 116, s. 2; 1967, c. 101, s. 2; 1968, c. 135, s. 2; 1970, c. 127, s. 2, *amended*.

3. Notwithstanding the express mention herein of certain municipalities as being included in certain counties and districts, every such county and district includes any other municipality situate within the limits thereof. R.S.O. 1960, c. 395, s. 3.

Inclusion of municipalities although not mentioned

UNITED COUNTIES, ETC.

4.—(1) For municipal, judicial and all purposes not otherwise provided for by law, the following counties continue to form unions of counties:

United counties

1. Stormont, Dundas and Glengarry;
2. Leeds and Grenville;
3. Northumberland and Durham;
4. Prescott and Russell.

(2) Each of such unions of counties under the name of the United Counties of.....and ..... (*naming them*), for all purposes, so long as such counties remain united, have in common, as if one county, all courts, offices and institutions established by law, pertaining to counties. R.S.O. 1960, c. 395, s. 4.

Courts, offices and institutions

5. For judicial purposes every city is united to and forms part of the county within the limits whereof it is situate; but for municipal purposes such cities and all towns and other municipalities withdrawn from the jurisdiction of the county do not form part of the counties in which they are respectively situate. R.S.O. 1960, c. 395, s. 5.

Cities and towns

Niagara judicial Districts R.S.O. 1970, c. 406

6. For judicial purposes, the Regional Area as defined in *The Regional Municipality of Niagara Act*, is divided into two judicial districts as follows:

1. The Judicial District of Niagara North composed of all the area of the County of Lincoln as it existed on the 31st day of December 1969.
2. The Judicial District of Niagara South composed of all the area of the County of Welland as it existed on the 31st day of December, 1969. 1968-69, c. 128, s. 2.

Judicial District of York

7. For judicial purposes, the Municipality of Metropolitan Toronto and The Regional Municipality of York are combined to form the Judicial District of York. 1970, c. 127, s. 3.

BOUNDARIES OF TOWNSHIPS LYING ON CERTAIN LAKES AND RIVERS

Limits of townships bounded by certain lakes and rivers

8.—(1) Except as provided in subsections 2 and 3, the limits of all the townships lying on the St. Lawrence River, Lake Ontario, Niagara River, Lake Erie, the Detroit River, Lake St. Clair, the St. Clair River, Lake Huron (not including the Georgian Bay), the St. Marys River and Lake Superior (not including Thunder Bay, Black Bay and Nipigon Bay), extend to the boundary of the Province of Ontario in such lake or river; in prolongation of the outlines of each township respectively; and unless otherwise provided herein, such townships also include all the islands the whole or the greater part of which are comprised within the said outlines so prolonged.

Exception

(2) Subsection 1 does not apply to that part of Ontario at the head of Lake Ontario lying west of the east boundary of the County of York produced southerly to the International Boundary, but in that part the limits of all townships on either side of the Lake extend to a line drawn from the intersection of the east boundary of the County of York produced with the International Boundary, westerly to the old outlet of Hamilton Harbour.

Long Point R.S.O. 1970, c. 371

(3) Subject to *The Provincial Parks Act*, the Township of South Walsingham includes the whole of Long Point. R.S.O. 1960, c. 395, s. 6.

Limits of townships on the Ottawa

9. The limits of the townships lying on the Ottawa River in like manner extend to the boundary between Ontario and Quebec. R.S.O. 1960, c. 395, s. 7.

Limits of townships in Glengarry

10. The limits of the townships in the County of Glengarry in like manner extend to the middle of Lake St. Francis, and to the middle of the main channel of the St. Lawrence River, and unless

otherwise provided herein, also include every island the whole or the greater part of which is comprised within the outlines of such townships so prolonged. R.S.O. 1960, c. 395, s. 8.

Limits of townships on Bay of Quinte and on other bays, lakes and rivers

11.—(1) The limits of the townships on the Bay of Quinte, the Georgian Bay, Thunder Bay, Black Bay and Nipigon Bay, the Trent River and its lakes, Lake Simcoe, the Severn River, the Rideau River and its lakes, the Thames River, the Grand River, and any other rivers, lakes and bays not hereinbefore mentioned, in like manner extend to the middle of such lakes and bays, and to the middle of the main channels of such rivers respectively, and unless otherwise provided herein, also include every island the whole or the greater part of which is comprised within the outlines of such townships so prolonged.

Exceptions

(2) Notwithstanding subsection 1,

(*a*) the extended east limit of the Township of Carling and the extended west limit of the Township of McDougall in the waters of Parry Sound are defined by a line drawn south 20° 52′ east astronomically from the southeast corner of Lot 6, Concession 10 in the Township of Carling; and

(*b*) the extended south limits of the Townships of McDougall and Carling and the extended north limit of the Township of Cowper in the waters of Parry Sound and the Georgian Bay are defined by a line drawn south 69° 8′ west astronomically from the southwest corner of the Township of McDougall,

and the Townships of Carling, McDougall and Cowper include every island the whole or the greater part of which is included within the limits of such townships as so defined.

Idem

(3) Notwithstanding subsection 1, the extended south limit of the Township of Baxter and the eastern portion of the extended north limit of the Township of Tay in the waters of the Georgian Bay from the mouth of the Severn River are defined as follows:

Commencing at a point in the waters of the Georgian Bay distant 94 chains, measured on a course of south 20° 52′ east from the northeast corner of Lot 31, Concession 2, in the Township of Baxter; thence north 80° west astronomically 109 chains more or less to a point in a line drawn south astronomically from the southwestern extremity of Potato Island; thence west astronomically 210 chains more or less to a point in the waters of the Georgian Bay midway between the mainland of the Township of Tay and the Township of Baxter;

Again commencing at the said point of commencement; thence north 62° east astronomically 40 chains more or

less to a point in the waters of the Georgian Bay midway between the mainland of the Township of Baxter and the Township of Tay, thence northerly and westerly following the midway line between the mainland of the Township of Baxter and the Township of Tay to the intersection with the centre of the main channel of the Severn River at the mouth of the Severn River,

and the Townships of Baxter and Tay include every island the whole or the greater part of which is included within the limits of such townships as so defined. R.S.O. 1960, c. 395, s. 9.

Savings as to islands being townships of themselves, etc.

12. Sections 8, 9, 10 and 11 do not extend to any islands or parts of islands that are townships by themselves, or that have been expressly included in other townships in the original surveys and plans thereof remaining of record in the office of the Minister of Lands and Forests or by statute, but the same remain townships or parts of such other townships respectively. R.S.O. 1960, c. 395, s. 10.

Where doubt exists as to township in which any land lies

R.S.O. 1970, c. 287

13. Notwithstanding sections 8, 9, 10 and 11, where doubt exists as to the township in which an island or other tract of land or lands covered with water lies, the Ontario Municipal Board upon application under *The Municipal Corporations Quieting Orders Act* may declare the township in which the same lies. R.S.O. 1960, c. 395, s. 11.

POWERS OF LIEUTENANT GOVERNOR IN COUNCIL

Powers of Lieutenant Governor in Council

14. The Lieutenant Governor in Council may,

(*a*) establish geographic townships in those parts of Ontario in which townships have not been constituted, and declare the name each shall bear and fix the boundaries thereof;

(*b*) alter the boundaries of any territorial district or provisional judicial district;

(*c*) when no letters patent have been issued granting lands in a township, alter the boundaries or change the name thereof;

(*d*) annex any gore or tract of land not forming part of a township to any adjoining township or parts of such gore or tract of land to townships adjoining such parts. R.S.O. 1960, c. 395, s. 12.

CHAPTER 459

The Theatres Act

Interpretation

1. In this Act,

(*a*) "Board" means the Board of Censors appointed under this Act;

(*b*) "Director" means the Director appointed under this Act;

(*c*) "film" means moving picture film 16 millimetres or more in width;

(*d*) "film depot" means any building or premises in which film is assembled for shipment;

(*e*) "film exchange" means a 16-millimetre film exchange or a standard film exchange;

(*f*) "inspector" means an inspector appointed under this Act;

(*g*) "Minister" means the Minister of Tourism and Information;

(*h*) "projection equipment" means projectors, generators, rectifiers, rheostats, rewinding and revising apparatus, sound equipment and any other apparatus or equipment used in connection with the projection of moving pictures;

(*i*) "projection room" means the room in which the projectors and sound equipment are installed and includes the rewind room, generator room and toilet room directly connected with or adjacent to the room in which the projector and sound equipment are installed;

(*j*) "projectionist" means a person who operates a projector designed for the use of standard film;

(*k*) "projector" means any type of machine used for the projection of moving pictures;

(*l*) "reel" means 1,000 feet or less in length of standard film or 400 feet or less in length of film 16 millimetres in width;

(*m*) "regulations" means the regulations made under this Act;

(*n*) "16-millimetre film exchange" means the business of renting, leasing, selling or distributing film 16 millimetres in width;

(*o*) "standard film" means film 35 millimetres or more in width;

(*p*) "standard film exchange" means the business of renting, leasing, selling or distributing standard film;

(*q*) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1960, c. 396, s. 1; 1960-61, c. 99, s. 1, *amended*.

Director

2.—(1) The Lieutenant Governor in Council may appoint a Director to administer and enforce this Act and the regulations and he has all the powers of an inspector.

Assistant Director

(2) The Lieutenant Governor in Council may appoint an Assistant Director who shall act in lieu of the Director,

(*a*) in the absence of the Director; or

(*b*) when so instructed to act by the Director,

and when so acting has all the powers of the Director. R.S.O. 1960, c. 396, s. 2.

Board

3.—(1) There shall be a board known as the Board of Censors consisting of the Director who shall be chairman of the Board and the Assistant Director who shall be vice-chairman of the Board and such other persons as the Lieutenant Governor in Council may appoint. R.S.O. 1960, c. 396, s. 3 (1).

Powers

(2) The Board has power,

(*a*) to censor any film and, when authorized by the person who submits film to the Board for approval, remove by cutting or otherwise from the film any portion thereof that it does not approve of for exhibition in Ontario;

(*b*) subject to the regulations, to approve, prohibit or regulate the exhibition of any film in Ontario;

(*c*) to censor any advertising matter in connection with any film or the exhibition thereof;

(*d*) subject to the regulations, to approve, prohibit or regulate advertising in Ontario in connection with any film or the exhibition thereof;

(*e*) to classify any film as adult entertainment;

(*f*) to classify any film as restricted entertainment; and

(*g*) to carry out its duties under this Act and the regulations. R.S.O. 1960, c. 396, s. 3 (2); 1960-61, c. 99, s. 2.

Idem

(3) The Board may designate one or more of its members to exercise the powers of the Board under clauses *c* and *d* of subsection 2 and in the exercise of such powers the member or

members so designated have a right of entry to any theatre. R.S.O. 1960, c. 396, s. 3 (3).

Inspectors

4.—(1) The Lieutenant Governor in Council may appoint one or more inspectors who shall carry out such duties as may be assigned to them by this Act or the regulations or by the Director. R.S.O. 1960, c. 396, s. 4 (1).

Powers and duties

(2) It is the duty of an inspector and he has power,

(*a*) to inspect theatres, buildings or premises occupied by film exchanges, projectors and film;

(*b*) to supervise projectionist's examinations and tests;

(*c*) to prohibit the use or exhibition of any film that in his opinion is not safe;

(*d*) to prohibit the use of any projector installed or operated contrary to this Act or the regulations;

(*e*) to seize any projector installed or operated, or any film or advertising used or exhibited, contrary to this Act or the regulations;

(*f*) in the performance of his duties to enter any theatre or any building or premises occupied by a film exchange or any building or premises other than a theatre in which standard film is used to exhibit moving pictures. R.S.O. 1960, c. 396, s. 4 (2); 1960-61, c. 99, s. 3.

Returns to be made to Director

5. The Director may require any person having in his possession or under his control films that have been approved by the Board to make a return to the Director showing the number and names of such films and any other information he may require. R.S.O. 1960, c. 396, s. 5.

Disposal of seized projector, film or advertising

6. Any projector, film or advertising seized by an inspector under this Act shall be disposed of as directed by the Minister. R.S.O. 1960, c. 396, s. 6; 1960-61, c. 99, s. 4.

Obstruction of inspector

7. No person shall obstruct the Director, Assistant Director, a member of the Board or an inspector in the performance of his duties or furnish him with false information. R.S.O. 1960, c. 396, s. 7.

Police officers, power of entry

8.—(1) Every constable and other police officer in the performance of his duties may enter any theatre during an exhibition or performance.

Fire Marshal, etc.

R.S.O. 1970, c. 172

(2) The Fire Marshal, Deputy Fire Marshal and every district deputy fire marshal, inspector or assistant to the Fire Marshal, appointed or designated under *The Fire Marshals Act*, may enter and inspect any theatre. R.S.O. 1960, c. 396, s. 8.

Issue of licences

9. All licences and renewals thereof under this Act shall be issued by the Director. R.S.O. 1960, c. 396, s. 9.

THEATRES

Classification of theatres

10. Theatres are classified and defined as follows:

1. Class A theatre means a building in which standard film is used to exhibit moving pictures and which may be used to exhibit shows and theatrical performances.
2. Class B theatre means a building in which standard film is used to exhibit moving pictures and which may be used to exhibit shows or theatrical performances providing no moveable scenery is used.
3. Class C theatre means a building in which standard film is used to exhibit moving pictures and that may be used to exhibit theatrical performances providing no movable scenery is used and no change of address or costume is made in the theatre.
4. Class D theatre means any premises in which moving pictures are exhibited and viewed by the public from vehicles and commonly known as a drive-in theatre. R.S.O. 1960, c. 396, s. 11; 1960-61, c. 99, s. 6.

Theatre licence required

11. No person shall use any building as a Class A, Class B or Class C theatre without a licence therefor under this Act and no person shall use any premises as a Class D theatre without a licence therefor under this Act. R.S.O. 1960, c. 396, s. 12.

Application for licence

12. Every application for a theatre licence or a renewal thereof shall be accompanied by the prescribed fee. R.S.O. 1960, c. 396, s. 13.

Term of licence

13. Every theatre licence expires on the 31st day of March in each year unless renewed on or before that day. R.S.O. 1960, c. 396, s. 14.

Condition to issue of licence

14. No theatre licence shall be issued until the theatre and the building in which the theatre is located conform to this Act and the regulations and have been approved by an inspector. R.S.O. 1960, c. 396, s. 15.

Suspension or cancellation of licence

15. The Director may suspend or cancel a theatre licence,

(*a*) if the licensee, manager or person in charge of the theatre contravenes any of the provisions of this Act or the regulations; or

(*b*) if in the opinion of the Director the theatre is not safe to be operated as a theatre,

but no licence shall be suspended or cancelled until the licensee has been afforded an opportunity to appear before the Director to show cause why the licence should not be suspended or cancelled. R.S.O. 1960, c. 396, s. 17; 1960-61, c. 99, s. 8.

Display of licence

16. Every theatre licence shall be displayed at all times in a conspicuous place at the entrance to the theatre. R.S.O. 1960, c. 396, s. 18.

Municipal licence

17. No municipality shall,

(*a*) license a theatre unless a licence therefor is in force under this Act;

(*b*) refuse to licence a theatre when a licence therefor is in force under this Act; or

(*c*) charge a greater fee for licensing a theatre than that charged for a theatre licence under this Act in respect of the same theatre. R.S.O. 1960, c. 396, s. 19.

Duty of licensee, etc.

18. The licensee, manager or person in charge of a theatre is responsible for ensuing that the provisions of this Act and the regulations respecting theatres and the exhibition of moving pictures therein are complied with. 1960-61, c. 99, s. 9.

Projector, approval

19. No projector shall be operated in a theatre unless the projection equipment is installed in conformity with this Act and the regulations and has been approved by an inspector. R.S.O. 1960, c. 396, s. 21.

Standing areas

20.—(1) All aisles, approaches, passageways, exits and stairways in a theatre shall be kept free and unobstructed and the public shall not be permitted to stand therein except in standing areas approved by the Director. R.S.O. 1960, c. 396, s. 22 (1).

Approval

(2) The licensee of every theatre who desires standing areas in the theatre shall submit a plan of the foyer and lobby of the theatre, in triplicate, to the Director who shall indicate on the plan the standing areas approved by him and shall return one copy of the plan to the licensee. R.S.O. 1960, c. 396, s. 22 (2); 1960-61, c. 99, s. 10.

Keeping of plan in manager's office

(3) A copy of every plan showing the standing areas approved by the Director shall be kept in the office of the manager in the theatre in respect of which the plan was submitted and shall be available for inspection at all times. R.S.O. 1960, c. 396, s. 22 (3).

Persons under twelve years attending theatres

21.—(1) No person apparently under twelve years of age not accompanied by a person apparently sixteen years or more of age shall be permitted to purchase a ticket of admission or be granted admission to an exhibition of moving pictures in a theatre,

(*a*) after the hour of 7.30 p.m. on any day;

(*b*) during the school term of public and secondary schools in the municipality in which the theatre is situated, except,

(i) during school holidays between the hours of 9 a.m. and 7.30 p.m., and

(ii) during any other day during the term between the hours of 3.30 p.m. and 7.30 p.m. 1960-61, c. 99, s. 11 (1).

Matron

(2) Where an exhibition of moving pictures is given in a theatre and persons under twelve years of age not accompanied by persons sixteen years or more of age are permitted to attend, a matron shall be on duty in the theatre. R.S.O. 1960, c. 396, s. 23 (2); 1960-61, c. 99, s. 11 (2).

Idem

(3) Every matron shall be eighteen years or more of age and dressed in a uniform of a type approved by the Director. R.S.O. 1960, c. 396, s. 23 (3).

Persons under 18 years attending restricted film exhibitions

(4) No person apparently under eighteen years of age shall be permitted to purchase a ticket of admission or be granted admission to or permitted to remain in a theatre where a film classified as restricted entertainment is about to be or is being exhibited.

Prosecution under subs. 1 or 4

(5) In any prosecution for a contravention of subsection 1 or 4, the provincial judge shall determine from the appearance of any person and other relevant circumstances whether he is apparently under the age referred to in subsection 1 or 4, as the case may be. 1960-61, c. 99, s. 11 (3).

Fire, panic, etc.

22.—(1) Where a fire, panic or accident occurs in a theatre, the licensee or, in his absence, the manager shall immediately notify the Director thereof by telephone or telegraph and, except in the case of a fire confined to the projection room, shall forthwith notify him in writing stating the apparent cause of the fire, panic or accident and any damage or injury resulting therefrom.

Fire in projection room

(2) In the case of a fire confined to a projection room, the projectionist in charge of the projection room shall forthwith notify the Director in writing stating the apparent cause of the fire and any damage or injury resulting therefrom. R.S.O. 1960, c. 396, s. 24.

23.—(1) The national anthem shall be played in every threatre at the commencement of the first or at the conclusion of the last exhibition or performance given each day. National anthem

(2) Where a matinee exhibition or performance is given and the theatre is closed for any period of time before the evening exhibitions or performances are given, the national anthem shall be played at the commencement or conclusion of the matinee exhibition or performance and at the commencement of the first or at the conclusion of the last evening exhibition or performance given each day. R.S.O. 1960, c. 396, s. 25. Idem

24.—(1) Where a film that has been classified as adult or restricted entertainment is exhibited in a theatre, such signs as the regulations may prescribe indicating that the film exhibited is adult or restricted entertainment shall be displayed in such manner as the regulations may prescribe. R.S.O. 1960, c. 396, s. 26 (1); 1960-61, c. 99, s. 12 (1). Adult or restricted entertainment

(2) All advertising matter in connection with a film classified by the Board as adult or restricted entertainment or the exhibition thereof shall indicate in such manner as the regulations may prescribe that the film is adult or restricted entertainment. R.S.O. 1960, c. 396, s. 26 (2); 1960-61, c. 99, s. 12 (2). Idem

25. The council of a city, town, village or township may pass by-laws prohibiting the construction of a theatre within 200 feet of a church or place of worship. R.S.O. 1960, c. 396, s. 27. Prohibiting construction of theatre near church

PROJECTIONISTS

26. No person shall, Operation of projector without licence

(*a*) operate a projector designed for the use of standard film; or

(*b*) operate a projector in a theatre,

unless such person is licensed as a projectionist under this Act and no licensee, manager or person in charge of a theatre shall permit any person to operate a projector in a theatre unless such person is licensed as a projectionist under this Act. R.S.O. 1960, c. 396, s. 28; 1960-61, c. 99, s. 13.

27. Projectionist licences are classified as first class, second class and apprentice. R.S.O. 1960, c. 396, s. 29. Licences, classification

28. An application for examinations and tests for any class of projectionist licence shall be made to the Director accompanied by the prescribed fee. R.S.O. 1960, c. 396, s. 30. Application for examinations

Eligibility for re-examination

29.—(1) Where an applicant fails to pass the examinations and tests required by the Director, he is not eligible to try the examinations and tests a second time until he has worked as an apprentice or as the holder of a second-class licence, as the case may be, for such further period as the Director requires.

Idem

(2) Where an applicant fails to pass the examinations and tests a second time, he is not eligible to try such examinations and tests again except by leave of the Director. R.S.O. 1960, c. 396, s. 31.

Licences: first-class

30.—(1) A first-class licence may be issued by the Director on payment of the prescribed fee to the holder of a second-class licence who has passed the examinations and tests required by the Director for a first-class licence.

second-class

(2) A second-class licence may be issued by the Director on payment of the prescribed fee,

(*a*) to the holder of an apprentice licence who has served as an apprentice for such period as the Director requires and has passed the examinations and tests required by the Director for a seond-class licence; or

(*b*) to any person who has operated projection equipment elsewhere than in Ontario and who furnishes to the Director information in respect of such operation satisfactory to the Director and has passed the examinations and tests required by the Director for a second-class licence.

apprentice

(3) An apprentice licence may be issued by the Director on payment of the prescribed fee to any person,

(*a*) who is eighteen years or more of age; and

(*b*) who furnishes to the Director,

(i) proof of age,

(ii) satisfactory evidence of physical ability to handle projection and fire-fighting equipment, and

(iii) satisfactory evidence that he does not suffer from any physical or mental disability that would prevent him from operating projection equipment safely. R.S.O. 1960, c. 396, s. 32.

Expiration of licence

31. Every projectionist licence expires on the 31st day of March in each year unless renewed on or before that day. R.S.O. 1960, c. 396, s. 33.

Renewal of licence

32. An application for renewal of a projectionist licence shall be accompanied by the prescribed fee. R.S.O. 1960, c. 396, s. 34.

Transfer of licence

33. Projectionist licences are not transferable. R.S.O. 1960, c. 396, s. 35.

34. The Director may suspend or cancel the licence of any projectionist who contravenes any of the provisions of this Act or the regulations, but no licence shall be suspended or cancelled until the projectionist has been afforded an opportunity to appear before the Director to show cause why the licence should not be suspended or cancelled. R.S.O. 1960, c. 396, s. 36. Suspension and cancellation for contravention

35. No licensee, manager or person in charge of a theatre shall knowingly permit a projectionist to contravene any of the provisions of this Act or the regulations. R.S.O. 1960, c. 396, s. 37; 1960-61, c. 99, s. 14. Responsibility of licensee, etc.

CENSOR OF FILMS AND ADVERTISING

36. All film before being exhibited in Ontario shall be submitted to the Board for approval, accompanied by the prescribed fee. R.S.O. 1960, c. 396, s. 38. Approval of film

37. When film is approved by the Board, it shall be so stamped. R.S.O. 1960, c. 396, s. 39. Stamping

38.—(1) A certificate signed by the chairman or vice-chairman of the Board shall be issued in respect of each reel approved by the Board and shall accompany the reel at all times. Certificate to accompany reel

(2) Where certificates are lost or destroyed, application for duplicate certificates may be made to the Board setting forth the title of the film and the number of certificates lost or destroyed, and accompanied by the prescribed fee. R.S.O. 1960, c. 396, s. 40. Lost certificates

39. No person shall exhibit or cause to be exhibited in Ontario any film that has not been approved by the Board. R.S.O. 1960, c. 396, s. 41. Exhibition of film not approved by Board

40. No person shall alter or cause to be altered any film from its state as approved by the Board. R.S.O. 1960, c. 396, s. 42. Alteration of film

41.—(1) No person shall use or display any advertising matter in connection with film or the exhibition thereof unless a sample of the advertising matter has been approved by the Board. Approval of advertising

(2) Before advertising matter in connection with film or the exhibition thereof is used or displayed in Ontario, a sample thereof in duplicate accompanied by the prescribed fee shall be submitted to the Board for approval. Samples to be submitted to Board

(3) Where a sample of advertising matter is approved by the Board, it shall be so stamped and one sample shall be returned to the person who submitted it. R.S.O. 1960, c. 396, s. 43. Samples stamped approved

FILM EXCHANGES

Film exchange licence

42. No person shall carry on the business of a 16-millimetre film exchange or a standard film exchange without a licence therefor from the Director. R.S.O. 1960, c. 396, s. 44.

Application for licence or renewal

43. An application for a film exchange licence or a renewal thereof shall be accompanied by the prescribed fee. R.S.O. 1960, c. 396, s. 45.

Term of licence

44. Every film exchange licence expires on the 31st day of March in each year unless renewed on or before that day. R.S.O. 1960, c. 396, s. 46.

Conditions to issue of licence

45. A standard film exchange licence shall be issued only if the building occupied by the film exchange,

(*a*) is of fire-resistive construction in that portion of the building in which film is handled or stored;

(*b*) is not occupied as a dwelling; and

(*c*) in the opinion of the Director, is not occupied by another business that is dangerous to the carrying on of the business of the film exchange. R.S.O. 1960, c. 396, s. 47; 1960-61, c.99, s. 15.

Transfer of licence

46. A film exchange licence shall not be transferred without the written consent of the Director. R.S.O. 1960, c. 396, s. 48.

Suspension or cancellation of licence

47. The Director may suspend or cancel any film exchange licence if the licensee has contravened any of the provisions of this Act or the regulations, but no licence shall be suspended or cancelled until the licensee has been afforded an opportunity to appear before the Director to show cause why the licence should not be suspended or cancelled. R.S.O. 1960, c. 396, s. 49.

Distribution of standard film

48. No film exchange shall supply standard film to any person who does not hold a theatre licence under this Act or a licence under this Act to exhibit standard film in any building or premises other than a theatre in respect of which a licence is in force under this Act. R.S.O. 1960, c. 396, s. 50.

Distribution of advertising matter

49. No film exchange or agent therefor shall supply any person with advertising matter in connection with film or the exhibition thereof that has not been approved by the Board. R.S.O. 1960, c. 396, s. 51; 1960-61, c. 99, s. 16.

Fire loss

50. Where a fire occurs in a building or premises occupied by a film exchange or where any film of the film exchange is damaged

or lost by reason of a fire elsewhere than in the building or premises occupied by the film exchange, the licensee of the film exchange or, in his absence, the person in charge shall forthwith notify the Director in writing stating the apparent cause of the fire and any damage or loss resulting therefrom. R.S.O. 1960, c. 396, s. 53.

Safety film

51. No film other than film having a cellulose acetate base or a base having equivalent slow-burning characteristics and commonly known as safety film shall be kept or stored in a film exchange or film depot. R.S.O. 1960, c. 396, s. 54.

BUILDING PLANS

Approval of building plans

52. No person shall construct or alter any building or premises intended for use as a theatre or to be occupied by a film exchange until the plans of the proposed construction or alteration have been submitted to and approved by the Director. R.S.O. 1960, c. 396, s. 55.

Municipal authorization for Class D theatres

53. The Director shall not approve the plans for the construction of a Class D theatre unless there is submitted with the application for such approval a copy of a resolution of the council of the local municipality in which such theatre is proposed to be constructed authorizing the construction of such theatre in the municipality, and such approval shall not be deemed to be a licence under section 11. R.S.O. 1960, c. 396, s. 56.

Conflict with building by-laws

54. In the event of a conflict between this Act and the regulations and a municipal building by-law, this Act and the regulations prevail. R.S.O. 1960, c. 396, s. 57.

MISCELLANEOUS LICENCES

Licence to operate 16-mm. projector

55.—(1) No person shall operate a projector designed for the use of film 16 millimetres in width for hire or gain without a licence therefor from the Director.

Application

(2) An application for a licence under this section shall be accompanied by the prescribed fee.

Term of licence

(3) Every licence issued under this section expires on the 31st day of March following the date of issue. R.S.O. 1960, c. 396, s. 58.

Licence to exhibit standard film elsewhere than in theatre

56.—(1) No person shall exhibit standard film in any building or premises other than a theatre in respect of which a licence is in force under this Act without a licence therefor from the Director.

Application

(2) An application for a licence under this section shall be accompanied by the prescribed fee.

Term of licence

(3) A licence issued under this section remains in force for such term as is specified in the licence. R.S.O. 1960, c. 396, s. 59.

APPEAL

Appeal

57.—(1) Any person who considers himself aggrieved by a decision of the Board, Director, Assistant Director or an inspector may, within ten days after the receipt of notice in writing of the decision, appeal in writing to the Minister who shall, upon notice to all interested parties, hear the appeal and approve, disapprove or vary the decision appealed against.

Suspension of licence not affected

(2) The making of an appeal under this section does not affect the suspension or cancellation of a licence pending the disposition of the appeal by the Minister. R.S.O. 1960, c. 396, s. 60.

OFFENCES

Offence

58. Every person who contravenes any of the provisions of this Act or the regulations, or any order of the Board, Director or Assistant Director, is guilty of an offence and on summary conviction is liable to a fine of not less than $50 and not more than $500. R.S.O. 1960, c. 396, s. 61.

Application of fees

59. All fees collected under this Act shall be paid to the Treasurer and shall form part of the Consolidated Revenue Fund. R.S.O. 1960, c. 396, s. 62, *amended*.

REGULATIONS

Regulations

60.—(1) The Lieutenant Governor in Council may make regulations,

1. prescribing the type of construction, heating, ventilating and lighting for theatres or any class thereof or for buildings or premises occupied or to be occupied by film exchanges and regulating and governing the design, construction, alteration, maintenance, repair, heating, ventilating and lighting of theatres or any class thereof or of buildings or premises occupied by film exchanges;

2. prescribing, regulating and governing the equipment to be used for the prevention and extinguishment of fire in theatres or any class thereof or in buildings or premises occupied by film exchanges;

3. prescribing the equipment, apparatus or furnishings or the type thereof to be used in theatres or any class thereof or in buildings or premises occupied by film exchanges;

4. regulating and governing the arrangement and use of equipment, apparatus or furnishings in theatres or any

class thereof or in buildings or premises occupied by film exchanges;

5. prescribing the type of construction for vaults to be used for the storage of film or any class or type thereof;

6. providing that any material to be used in the construction, alteration, maintenance, repair, heating, ventilating or lighting of theatres or any class thereof or of buildings or premises occupied or to be occupied by film exchanges shall be approved by the Director and that any equipment, apparatus or furnishings to be used in theatres or in buildings or premises occupied by film exchanges or the arrangement or use thereof shall be approved by the Director;

7. regulating and governing the storage of film or any type or class thereof, advertising matter in connection with film or the exhibition thereof, film cement or any flammable material;

8. providing that film depots shall conform to any of the provisions of this Act or the regulations respecting film exchanges;

9. prohibiting and regulating the use and exhibition of film or any type or class thereof;

10. prohibiting and regulating the use and display of any advertising matter in connection with any film or the exhibition thereof;

11. requiring any proportion of films available for distribution to exhibitors or of films exhibited in theatres or any class thereof to be of British manufacture and origin and fixing such proportion on a monthly or yearly basis;

12. prescribing the responsibilities and duties of projectionists or of any class thereof;

13. prescribing the terms and conditions under which projection equipment may be operated;

14. prescribing the terms and conditions under which film or any type or class thereof may be sold, rented, leased, exhibited or distributed;

15. prescribing the nature of the plans to be submitted to the Director under this Act and the qualifications of persons by whom such plans are to be prepared and certified;

16. prescribing the signs that shall be displayed in respect of the exhibition in a theatre of film classified by the Board as adult or restricted entertainment and the manner in which the signs shall be displayed;

17. prescribing the manner in which advertising matter in connection with any film classified by the Board as adult or restricted entertainment or the exhibition thereof shall indicate that the film has been so classified;

18. regulating and governing the conduct of projectionists or other persons in theatres or any class thereof or in buildings or premises occupied by film exchanges;

19. providing for the issue, renewal and transfer of theatre licences and film exchange licences or any class thereof and prescribing the fees therefor;

20. prescribing the fees to be paid by applicants for examinations and tests for any class of projectionist licence;

21. providing for the issue and renewal of projectionist licences or any class thereof and prescribing the fees therefor;

22. prescribing the fees to be paid for censoring and approving of film or reels or of any type or class of film or reels;

23. prescribing the fees to be paid for censoring and approving of advertising matter in connection with any film or the exhibition thereof;

24. prescribing the fees to be paid for the issue of certificates of approval and duplicates thereof;

25. providing for the issue of licences to exhibit standard film in buildings or premises other than a theatre in respect of which a licence is in force under this Act and prescribing the fees therefor;

26. providing for the issue and renewal of licences to operate projectors designed for the use of film 16 millimetres in width and prescribing the fees therefor;

27. prescribing forms and stampings and providing for their use;

28. exempting any theatre, film exchange, projector, or film, or any class or type thereof, from any of the provisions of this Act or the regulations;

29. respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 396, s. 63 (1); 1960-61, c. 99, s. 18.

(2) Any regulation made under this section may be limited as to time or place, or both. Limitation

(3) Any word or expression used in this Act or the regulations may be defined in the regulations for the purposes of the regulations. R.S.O. 1960, c. 396, s. 63 (2, 3). Expressions defined in regulations

CHAPTER 460

The Ticket Speculation Act

Interpretation

1. In this Act, "ticket" means a card, pass or other document upon presentation of which the holder is entitled to admission to any theatre, opera house, public hall, show, game, grandstand, race meeting, exhibition or amusement of any kind. R.S.O. 1960, c. 398, s. 1.

Offences:

2. Every person who,

selling

(*a*) being the holder of a ticket, sells or disposes of the ticket at a higher price than that at which it was first issued, or endeavours or offers so to do;

purchasing as a speculation or at a higher price than advertised

(*b*) purchases or attempts to purchase tickets with the intention of reselling them at a profit, or purchases or offers to purchase tickets at a higher price than that at which they are advertised or announced to be for sale by the owner or proprietor of any place mentioned in section 1,

is guilty of an offence and on summary conviction is liable to a fine of not less than $5 and not more than $50. R.S.O. 1960, c. 398, s. 2.

Exception as to sale on commission at hotel stands and stores

3. This Act does not apply to the sale of tickets by the proprietor of a shop or hotel stand or his servant when such proprietor is an agent of a theatre, opera house, public hall, or grandstand, or of the owner or promoter of a show, game, race meeting, exhibition, or amusement of any kind for the sale of tickets, and where the commission charged upon the sale of each ticket does not exceed the maximum prescribed in the Schedule to this Act. R.S.O. 1960, c. 398, s. 3.

SCHEDULE

Price of Ticket	Maximum Commission
Up to $1.99	.25
$2.00 to $2.99	.35
3.00 to 3.99	.45
4.00 and up	.50

R.S.O. 1960, c. 398, Sched.

CHAPTER 461

The Tile Drainage Act

Interpretation

1. In this Act,

(*a*) "drainage work" means a drain to be constructed of stone or timber, or of tile, pipe or tubing of any material;

(*b*) "municipality" means a city, town, village or township. 1968-69, c. 129, s. 1, *part*.

Borrowing powers of municipalities R.S.O. 1970, c. 323

2.—(1) Subject to sections 64 and 65 of *The Ontario Municipal Board Act*, the council of a municipality may pass by-laws in Form 1 authorizing the borrowing of money for the purposes of the construction of drainage works and the issuance of debentures by the municipality or by a district or regional municipality on its behalf. 1968-69, c. 129, s. 1, *part*; 1970, c. 47, s. 1 (1).

Idem

(2) Subject to subsections 3 and 4, a municipality or a district or regional municipality on its behalf may borrow in sums of not less than $2,000 and the total indebtedness of a municipality under this Act shall not exceed $300,000 at any one time, but if the assessment of the whole rateable property in the municipality according to the last revised assessment roll is not less than $3,000,000, its total indebtedness under this Act shall not exceed $750,000 at any one time. 1968-69, c. 129, s. 1, *part*; 1970, c. 47, s. 1 (2).

Maximum indebtedness where amalgamation or annexation

(3) Where a municipality is amalgamated with or annexed to another municipality, the total indebtedness under this Act of the new municipality or the annexing municipality shall not exceed at any one time the sum of the amounts of indebtedness that the amalgamated municipalities or the annexing and annexed municipalities, as the case may be, could have outstanding under this Act in the year in which the amalgamation or annexation is effective if such amalgamation or annexation had not taken place.

Maximum indebtedness where annexation of part of municipality

(4) Where a municipality annexes part of another municipality, the total indebtedness under this Act of the annexing municipality shall not exceed at any one time the sum of,

(*a*) the amount of indebtedness that the annexing municipality could have outstanding under this Act in the year in which the annexation is effective; and

(*b*) that proportion of the amount of indebtedness that the municipality from which the part was annexed could have outstanding under this Act in the year in which the

annexation is effective that is equal to the proportion that the assessment of the rateable property annexed is of the rateable property of the whole of the municipality including that part that was annexed therefrom according to the last revised assessment roll,

if such annexation had not taken place.

Terms of debentures

(5) The debentures shall be in Form 2 and shall be payable within ten years from the date of the debentures, shall bear the date in the year in which the money is borrowed from the municipality and shall bear interest at a rate of not less than 3 per cent per annum.

Notice of meeting

(6) It is not necessary to obtain the assent of the electors in the municipality to the passing of a by-law under this Act, but no by-law shall be passed except at a meeting of the municipal council specially called for the purpose of considering it and of which notice has been published in accordance with subsection 7.

Idem

(7) A notice in Form 3 of every such meeting shall be published at least once each week for three successive weeks in such newspaper as the council may by resolution direct, and the first publication of the notice shall be not less than four weeks before the holding of the meeting. 1968-69, c. 129, s. 1, *part*.

Publication of by-law

3.—(1) After the passing of the by-law a copy of it shall be published in such public newspaper, published in the municipality or in the county town or in an adjoining or neighbouring municipality, as the council may by resolution designate, and in at least one number of such newspaper each week for three successive weeks.

Notice to be appended

(2) To each copy of the by-law shall be appended a notice in Form 4.

When by-law to be valid

(3) If notice of an application to quash the by-law or any part thereof is not given within twenty days after the last publication under this section, or if such notice is given and the application is not made within one month after the last publication, the by-law shall not be questioned in any court and is valid and binding according to the terms thereof. R.S.O. 1960, c. 399, s. 2.

Application of proceeds

4. The debentures may be issued and sold from time to time for the purpose only of lending the proceeds thereof for the construction of drainage works, as provided in this Act, as money is required for the purpose. 1968-69, c. 129, s. 2.

Form of debentures, and coupons

5. The debentures shall be made payable to the Treasurer of Ontario and shall have coupons attached thereto that shall be for equal annual amounts of principal and interest. R.S.O. 1960, c. 399, s. 4.

Application for disposal of debentures

6.—(1) The council, after the expiration of one month from the last publication under section 3, shall deposit with the Treasurer of Ontario a copy of the by-law, with affidavits of the head and clerk of the municipality in Forms 5 and 6, and may at any time thereafter apply for the purchase by Ontario of the debentures authorized thereby.

Form of application

(2) The application shall be sealed with the seal of the municipality and signed by the head thereof, and shall specify the names of the persons to whom the money is to be lent. R.S.O. 1960, c. 399, s. 5.

Application by owner for loan

7.—(1) A person assessed as owner, and being the actual owner of land in the municipality, desiring to borrow money for the purpose of the construction of a drainage work may make application in Form 7 to the council. R.S.O. 1960, c. 399, s. 7 (1); 1968-69, c. 129, s. 3.

Statutory declaration of applicant

(2) The application shall not be acted upon unless it is accompanied by a declaration of the applicant stating that he is the actual owner of the land mentioned in the application, and that the land is free from encumbrance, or if the land or any part of it is mortgaged or otherwise encumbered, stating the name and address of the mortgagee or encumbrancer, and, where it has been assigned, the name of the assignee of the mortgage or encumbrance with his address.

Notice to encumbrancer

(3) Where it appears that there is a mortgage or encumbrance upon the land or any part of it the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered mail, sent to him by the clerk at his last known address.

Hearing

(4) If a mortgagee, encumbrancer or assignee notifies the clerk in writing, within the time specified in subsection 3, that he objects to the granting of the application, the council shall hold a hearing of which the clerk shall give at least five days notice in writing by registered mail to the applicant and to the mortgagee, encumbrancer or assignee who gave the notice.

Discretion of council

(5) The granting or refusal of any application is in the discretion of the council whose decision is final. R.S.O. 1960, c. 399, s. 7 (2-5).

Issuing debentures

8. If the application is granted, the council may issue debentures for such sum within the amount authorized by this Act and by the by-law of the municipality, as it may consider proper, but not exceeding the sum applied for, nor exceeding 75 per cent of the estimated cost of the drainage. R.S.O. 1960, c. 399, s. 8.

Purchase of debentures out of Consolidated Revenue Fund

9. The Treasurer of Ontario may purchase, acquire and hold debentures issued under this Act to an extent not exceeding in the whole $20,000,000 at any time, and pay therefor out of the Consolidated Revenue Fund. 1961-62, c. 138, s. 2; 1967, c. 102, s. 1.

Approval by Treasurer necessary before application granted

10. Notwithstanding any other provisions of this Act, no application shall be granted by a council until the Treasurer of Ontario has approved the purchase of such debentures as the council may require to issue to undertake a proposed drainage work. R.S.O. 1960, c. 399, s. 10.

Debentures not to be questioned

11. After such investment, the debentures shall not be questioned in any court and are valid and binding according to the terms thereof. R.S.O. 1960, c. 399, s. 11.

Assignment of debentures

12. The Treasurer of Ontario may sell, transfer and assign to the Accountant of the Supreme Court of Ontario or to the Workmen's Compensation Board any debentures issued under this Act after the 1st day of June, 1939. R.S.O. 1960, c. 399, s. 12.

Application of proceeds of loans

13.—(1) The council shall lend the money so borrowed only for the purpose of the construction of drainage works and for a term of ten years, in sums of $100 or multiples thereof, subject to section 14, as the council may consider proper, to persons entitled to borrow. R.S.O. 1960, c. 399, s. 13 (1); 1966, c. 155, s. 2; 1968-69, c. 129, s. 4.

Members of council not disqualified by loan

(2) No person by reason of having borrowed money under this Act is disqualified from being elected as a member of council or from sitting or voting therein but no member of council shall vote on any question affecting an application for a loan in which he has an interest. R.S.O. 1960, c. 399, s. 13 (2).

Limit of loan to individual

14. The amount loaned to any one person shall not exceed 75 per cent of the total cost of the work. R.S.O. 1960, c. 399, s. 14; 1961-62, c. 138, s. 3.

Order in which loans are to be granted

15. The council shall consider the applications in the order in which they are made, and shall lend the money in the same order to the persons whose applications are approved. R.S.O. 1960, c. 399, s. 15.

Appointment of Inspector

16. A council borrowing money under this Act shall employ a competent inspector of drainage, the cost of whose services and whose expenses shall be apportioned rateably against the works carried on under his inspection, and shall be paid by the council out of the money borrowed. R.S.O. 1960, c. 399, s. 16.

17.—(1) On the completion to his satisfaction of any drainage work under his charge, the inspector shall file with the clerk a report to the council certifying that in his opinion the work has been satisfactorily completed, and showing, Inspector's report

(*a*) the number of rods of drainage constructed on each lot or parcel of land;

(*b*) the cost per rod;

(*c*) a plan of the work; and

(*d*) such other particulars as may be required by the council.

(2) The report shall be entered in a book provided by the council, and the money shall not be advanced by the council until the report of the due completion of the work has been so made. R.S.O. 1960, c. 399, s. 17. Record

18. The council shall impose by by-law in Form 8, and shall levy and collect for the term of ten years, over and above all other rates upon the land in respect of which the money is lent, a special equal annual rate sufficient to discharge the principal and interest of the money lent, and the rate shall be collected in the same manner as other special rates imposed under *The Municipal Act*. R.S.O. 1960, c. 399, s. 18, *amended*. Collection of special rate R.S.O. 1970, c. 284

19.—(1) Where a part of a parcel of land in respect of which money has been lent is sold, the council of the municipality may apportion the special annual rate between the part sold and the part remaining. Sale of part of land rated for work

(2) The clerk shall give the owners of the parts into which the parcel is divided and the mortgagees, encumbrancers or assignees at least five days notice in writing by registered mail of the time and place the council will make the apportionment. Notice

(3) The council in making the apportionment shall have regard to the part of the parcel affected by the drainage work and such other matters as it considers expedient and the decision of the council with respect to the apportionment is final. Apportionment of rate

(4) The apportionment shall be filed in writing with the clerk and thereafter the special annual rate shall be levied and collected in accordance with the apportionment. R.S.O. 1960, c. 399, s. 19. Filing of apportionment

20. The owner of land in respect of which money has been borrowed may at any time obtain the discharge of the indebtedness by paying to the treasurer of the municipality the amount borrowed, with interest thereon at the rate payable by the municipality or district or regional municipality to the Treasurer of Ontario or his assignee on the debentures of the municipality or Discharge of indebtedness by owner

district or regional municipality that the Treasurer or his assignee holds in respect of the said indebtedness, less any sum already paid on account of principal and interest, and upon the same being paid to the treasurer, he shall forthwith transmit it to the Treasurer of Ontario or his assignee who shall apply it towards payment of the debentures of the municipality or district or regional municipality. 1970, c. 47, s. 2.

Returns to Minister of Agriculture and Food by municipal council

21. A council that has borrowed money shall, on or before the 15th day of January in each year, make a return to the Minister of Agriculture and Food, showing, for the year that ended on the 31st day of December next preceding, the amount expended in drainage, the number of rods or feet of drain constructed, the names of the borrowers, the land upon which the money has been lent, the names of the persons whose applications have been refused and the reasons in each case for the refusal. R.S.O. 1960, c. 399, s. 21; 1961-62, c. 138, s. 4, *amended*.

Repayment by municipality or district or regional municipality to Province

22.—(1) The amount payable in each year for principal and interest shall be remitted by the treasurer of the municipality or district or regional municipality to the Treasurer of Ontario or his assignee within one month after it became payable, together with interest at the rate of 7 per cent per annum during the time of any default in payment. R.S.O. 1960, c. 399, s. 22 (1); 1968-69, c. 129, s. 6; 1970, c. 47, s. 3.

Consequence of default in payment

(2) In case of a continuance of such default the council, in the next ensuing year or as the case may require, shall assess and levy on the whole rateable property within its jurisdiction, in the same manner in which taxes are levied for the general purposes of the municipality, a sum over and above the other valid debts of the corporation falling due within the year sufficient to enable the treasurer to pay the amount in arrear, together with interest thereon at the rate of 7 per cent per annum, from the time the same became payable until payment whether or not the same has been previously paid by or recovered from the persons or lands chargeable therewith.

How arrears ranked as a charge

(3) The amount so in arrear and the interest are the first charge upon all the funds of the municipality other than sinking funds, for whatever purpose or under whatever by-law they may have been raised.

Duty of municipal treasurer after default

(4) No treasurer or other officer shall, after such default, pay out of the funds of the municipality any sum except for the ordinary current disbursements, and salaries of clerks and other employees of the municipality or debts due to the Province until the amount so in arrear and the interest has been paid to the Treasurer of Ontario or his assignee.

Liability of municipal officers

(5) If the municipal treasurer or other officer pays any sum contrary to the provisions of subsection 4, in addition to any

criminal liability that he may thereby incur, he is personally liable for every sum paid as for money had and received by him for the Crown.

Penalty for violation

(6) Any member of the council who wilfully or negligently permits any of the foregoing provisions to be contravened is also personally and individually liable for the full amount so in arrear and the interest, to be recovered as for money had and received by him for the Crown.

Liability of lands to municipality not affected

(7) No assessment, levy or payment made under this section exonerates the persons or lands chargeable under the by-law from liability to the municipality. R.S.O. 1960, c. 399, s. 22 (2-7).

Regulations and forms

23. The Lieutenant Governor in Council may make regulations and prescribe forms for the carrying out of the provisions of this Act, and, subject thereto, the forms in the Schedule hereto shall be used. R.S.O. 1960, c. 399, s. 23.

SCHEDULE

FORM 1

(*Section* 2 (1))

FORM OF BY-LAW

By-law No......

A by-law to raise $.....*to aid in the construction of tile, stone or timber drains.*

The Council of the.....of....., pursuant to *The Tile Drainage Act*, enacts as follows:

1. The Reeve (*or* Mayor) may from time to time, subject to the provisions of this by-law, borrow on the credit of the corporation of the Municipality such sum not exceeding in the whole $....., as may be determined by the Council, and may in manner hereinafter provided, issue debentures of the corporation in such sums as the Council may deem proper for the amount so borrowed, with coupons attached as provided in section 5 of the Act.

2. Subject to section 10 of *The Tile Drainage Act*, when the Council is of opinion that the application of any person to borrow money for the purpose of constructing a drainage work should be granted in whole or in part, the Council may, by resolution, direct the Reeve (*or* Mayor) to issue debentures as aforesaid and to borrow a sum not exceeding the amount applied for, and may lend the same to the applicant on the completion of the drainage works.

3. A special annual rate shall be imposed, levied and collected over and above all other rates upon the land in respect of which the money is borrowed, sufficient for the payment of the principal and interest as provided by the Act.

Passed the.....day of.....19.....

.....
Reeve (*or* Mayor)

.....
Clerk

(Corporate seal)

R.S.O. 1960, c. 399, Form 1; 1968-69, c. 129, s. 7.

FORM 2

(*Section* 2 (5))

FORM OF TILE DRAINAGE DEBENTURE

$..... No.....

Drainage Debenture of the.....of.....

The Corporation of the.....of....., in the County of ..... hereby promises to pay to the Treasurer of Ontario or order at the Bank of.....in the..... of....., the sum of $.....of lawful money of Canada, and interest thereon at.....per cent in .....equal annual instalments of $..... each, the first of such instalments to be paid on the..... .....day of....., 19...., pursuant to by-law No..... entitled "A by-law to raise $....., to aid in the construction of drainage works".

(Corporate Seal)

....

Reeve (*or* Mayor) Treasurer

FORM OF COUPON

Coupon for twentieth Annual Instalment of.....Drainage Debenture No. 1, issued under By-law No.....of the..... of.....$.... payable at the Bank of.....in the.....of .....on.....day of...., 19.....

....

Reeve (*or* Mayor Treasurer

R.S.O. 1960, c. 399, Form 2; 1968-69, c. 129, s. 8.

FORM 3

(*Section* 2 (7))

NOTICE OF MEETING TO CONSIDER BY-LAW

Take notice that a by-law for raising $.....under the provisions of *The Tile Drainage Act*, will be taken into consideration by the Council of the..... of.....at the.....of....., on the.....day of....., 19...., at the hour of.....o'clock in the .....noon.

.....

Clerk

R.S.O. 1960, c. 399, Form 3.

FORM 4

(*Section* 3 (2))

NOTICE

Corporation of the.....of.....

Take notice that the above is a true copy of a By-law passed by the Council of the .....of..... on the.....day of.....-.....-....., 19...., and all persons are required to take notice that any one who desires to apply to have the by-law or any part thereof quashed must serve notice of his application upon the Head or Clerk of this municipality within 20 days after the date of the last publication of this notice, and must make his application to the Supreme Court of Ontario within one month after the said date. This notice was first published on the.....day of ....., 19...., and the last publication will be on the..... day of....., 19.....

.....
Clerk

R.S.O. 1960, c. 399, Form 4.

FORM 5

(*Section* 6)

AFFIDAVIT OF HEAD OF MUNICIPALITY

I, ..., of the

County of.....
TO WIT: } .....of.....in the County of.....,

Reeve (*or* Mayor) of the.....of.....make oath and say:

I have not been served with any notice of intention to make application to quash a by-law passed on the.....day of ....., 19...., by the Council of the.....of.....No..... entitled (*insert the title of by-law*), nor have I been served with any notice of intention to make application to quash any part of the by-law, nor with any notice to that or the like effect.

Sworn, etc.,

.....
Reeve (*or* Mayor)

R.S.O. 1960, c. 399, Form 5.

FORM 6

(*Section* 6)

AFFIDAVIT OF CLERK

I,....., of the.....

County of.....} TO WIT: } of.....in the County of.....,

Clerk of the.....of.....make oath and say:

1. On the.....day of....., 19...., the Council of the.....of..... at a meeting specially called for that purpose passed a by-law for borrowing money to be lent for the construction of drainage works, being No..... and entitled (*insert title of by-law*), a copy of which certified by me is now shown to me marked "A".

2. I have not been served with any notice of intention to make application to quash the by-law, or any part thereof, nor with any notice to that or the like effect.

Sworn, etc.

.....
Clerk

R.S.O. 1960, c. 399, Form 6; 1968-69, c. 129, s. 9.

FORM 7

(*Section* 7)

APPLICATION FOR LOAN

To the Council of.....

I, *E. F.*, owner of (*if part state what part*) lot No.....in .....Concession of the Township of.....(*or as the case may be*) apply for a loan of $.....to assist in the construction of.....rods of..... drain on such land. The proposed depth of drain is.....inches, the proposed size of tile, pipe or tubing is.....inches (1).

E. F.

(1) *If the proposed drain is to be stone or timber for the words* "size of tile, pipe or tubing" *substitute the words* "inside size of drain".

R.S.O. 1960, c. 399, Form 7; 1968-69, c. 129, s. 10.

FORM 8

(*Section* 18)

BY-LAW IMPOSING A RATE

By-law imposing a Special Drainage rate upon Lot ..... *in the* ..... *Concession.*

Whereas *E. F.*, the owner of (*if part state what part*) Lot ..... in the ..... Concession of the Township of ..... (*or as the case may be*), applied to the Council of the Township under *The Tile Drainage Act*, for a loan for the purpose of draining such land; and whereas the Council has, upon his application, lent *E. F.*, the sum of $1,000 (*or as the case may be*), to be repaid with interest by means of the rate hereinafter imposed:

Be it therefore enacted, by the Council, that an annual rate of ..... per annum is hereby imposed upon such land for a period of ..... years, such rate to be levied and collected at the same time and manner as ordinary taxes are levied and collected.

Passed this ..... day of ....., 19.....

(Corporate seal)

.....
Reeve (*or* Mayor)

.....
Clerk

R.S.O. 1960, c. 399, Form 8.

CHAPTER 462

The Time Act

Meaning of expressions of time

1. Where an expression of time occurs in any Act, proclamation, regulation, order in council, rule, order, by-law, agreement, deed or other instrument, heretofore or hereafter enacted, made or executed, or where any hour or other point in time is stated either orally or in writing, or any question as to time arises, the time referred to or intended shall, unless it is otherwise specifically stated, be held to be time reckoned as standard time. R.S.O. 1960, c. 400, s. 1.

Standard time east of 90°W. longitude

2.—(1) Standard time in the part of Ontario that lies east of the meridian of 90°W. longitude shall be reckoned as five hours behind Greenwich time.

West of that meridian

(2) Standard time in the part of Ontario that lies west of the meridian of 90°W. longitude shall be reckoned as six hours behind Greenwich time.

Power to vary

(3) The Lieutenant Governor in Council may make regulations varying the reckoning of standard time as fixed by subsection 1 or 2. R.S.O. 1960, c. 400, s. 2.

CHAPTER 463

The Tobacco Tax Act

Interpretation

1. In this Act,

(*a*) "consumer" means any person who,

(i) in Ontario, purchases or receives delivery of tobacco, or

(ii) in the case of a person ordinarily resident in Ontario or carrying on business in Ontario, brings into Ontario tobacco acquired outside Ontario,

for his own use or consumption or for the use or consumption by others at his expense, or on behalf of, or as the agent for, a principal who desires to acquire the tobacco for use or consumption by him or other persons at his expense, but does not include a dealer;

(*b*) "dealer" means any person who in Ontario sells tobacco or offers or keeps tobacco for sale, either at wholesale or at retail;

(*c*) "Minister" means the Minister of Revenue;

(*d*) "package" includes a box, tin or other container in which tobacco is sold at retail;

(*e*) "regulations" means the regulations made under this Act;

(*f*) "retail dealer" means any person who sells tobacco to a consumer;

(*g*) "retail sale" means a sale to a consumer;

(*h*) "tobacco" means tobacco in any form in which it is used or consumed, and includes snuff;

(*i*) "Treasurer" means the Treasurer of Ontario and Minister of Economics;

(*j*) "wholesale dealer" means any person who sells in Ontario tobacco for the purpose of resale. 1965, c. 130, s. 1; 1970, c. 9, s. 1, *amended*.

Tax on consumer

2.—(1) Every consumer shall pay to Her Majesty in right of Ontario a tax computed at the rate of,

(*a*) four-tenths of 1 cent on every cigarette purchased by him;

(*b*) one-half of 1 cent for every 5 cents or part thereof of the price at retail of every cigar purchased by him;

(*c*) 2.5 cents per ounce or part thereof of any tobacco, other than cigarettes or cigars, purchased by him. 1968, c. 137, s. 1; 1968-69, c. 130, s. 1.

Collection of tax

(2) The tax imposed by this Act shall be collected from the consumer by the retail dealer as agent of the Minister at the time of the sale to the consumer and shall be remitted by the retail dealer to the Minister at the time and in the manner prescribed by the regulations. 1965, c. 130, s. 2 (2); 1970, c. 9, s. 2.

M.L.A.s not disqualified

(3) No person acting as agent under subsection 2 shall thereby be made ineligible as a member of the Assembly. 1965, c. 130, s. 2 (3).

Wholesale dealer's permit

3.—(1) No person shall sell tobacco in Ontario for resale unless he holds a subsisting wholesale dealer's permit issued to him under this Act.

Retail vendor's permit required

R.S.O. 1970, c. 415

(2) No person shall sell tobacco in Ontario to a consumer unless such person holds a subsisting vendor's permit issued to him under *The Retail Sales Tax Act*.

Sale to retail vendor

(3) No wholesale dealer shall sell tobacco in Ontario to a person who does not hold a subsisting vendor's permit issued to him under *The Retail Sales Tax Act*. 1965, c. 130, s. 3.

Suspension or cancellation of wholesale dealer's permit

4. The Minister may suspend or cancel the permit of any wholesale dealer who,

(*a*) refuses or neglects to account for and pay as herein required moneys received by him as proceeds of the tax; or

(*b*) refuses or neglects to furnish a surety bond when so required under the regulations,

but, before a suspension or cancellation is made, the wholesale dealer shall be afforded an opportunity to appear before the Minister to show cause why the permit should not be suspended or cancelled, as the case may be. 1970, c. 9, s. 3.

Tobacco brought into or received in Ontario

5. Every person ordinarily resident in Ontario or carrying on business in Ontario who brings into Ontario or who receives delivery in Ontario of tobacco acquired for value by him for his own consumption or use or for the consumption or use by other persons at his expense, or on behalf of, or as agent for, a principal who desires to acquire such tobacco for the consumption or use by such principal or other persons at his expense, shall immediately

report the matter in writing to the Minister and shall supply the Minister with the invoice and all other pertinent information required from him by the Minister in respect of the consumption or use of such tobacco, and shall pay to Her Majesty in right of Ontario the same tax in respect of the consumption and use of such tobacco as would have been payable if the tobacco had been purchased in Ontario. 1965, c. 130, s. 5; 1970, c. 9, s. 4.

Sales of tobacco under R.S.O. 1970, c. 52

6.—(1) No wholesale dealer shall dispose of his stock through a sale in bulk as defined in *The Bulk Sales Act* without first obtaining a certificate in duplicate from the Minister that all taxes collectable or payable under this Act by such wholesale dealer have been paid.

Idem

(2) Every person purchasing tobacco stock through a sale in bulk as defined in *The Bulk Sales Act* shall obtain from the wholesale dealer selling such stock the duplicate copy of the certificate furnished under subsection 1, and if he fails to do so, he is responsible for payment to the Treasurer of all taxes collectable or payable under this Act by the wholesale dealer thus disposing of his tobacco stock through a sale in bulk. 1970, c. 9, s. 5.

Absorption of tax

7. No retail dealer shall advertise or hold out or state to the public or to any consumer directly or indirectly that the tax or any part thereof imposed by this Act will be assumed or absorbed by the retail dealer or that it will not be considered as an element in the price to the consumer or, if added, that it or any part thereof will be refunded. 1965, c. 130, s. 6.

Tax moneys are trust moneys

8.—(1) Every person who collects any tax imposed by this Act shall be deemed to hold it in trust for Her Majesty in right of Ontario and shall pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations. 1965, c. 130, s. 7. (1).

Default in payment over to Treasurer

(2) If any person who has collected any tax imposed by this Act fails to pay it over to the Treasurer at the time and in the manner prescribed by the regulations or by agreement made under the regulations, as the case may be, the amount thereof becomes a debt due to Her Majesty in right of Ontario and is a lien upon the property in Ontario of the person in default and, subject to the *Bankruptcy Act* (Canada), has priority over all other claims of other persons, and it shall bear interest at the rate prescribed by the regulations from the day the amount was due until it is paid. 1970, c. 9, s. 6.

R.S.C. 1952, c. 14

Investigation

9.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or

anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and may,

(*a*) audit or examine any books and records and any account, voucher, letter, telegram or other document that relates or may relate to the tax imposed by this Act;

(*b*) examine the property described by an inventory or any property, process or matter, an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or the amount of any tax imposed by this Act;

(*c*) require a dealer liable to collect or pay over or considered possibly liable to collect or pay over tax imposed under this Act, or, if such dealer is a partnership or corporation, require a partner or the president, manager, secretary or any director, agent or representative thereof and any other person on the premises of such dealer to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination, either orally or, if he so requires, in writing, on oath or by statutory declaration, and for that purpose require such person to attend at the premises or place with him; and

(*d*) if during the course of an audit of examination it appears to him that there has been a contravention of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams or other documents and retain them until they are produced in any court proceedings. 1965, c. 130, s. 8 (1); 1970, c. 9, s. 7 (1).

Demand for information, etc., from dealers

(2) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any dealer or, if any such dealer is a partnership or corporation, from a partner or the president, manager, secretary or any director, agent or representative thereof any information or additional information or production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein. 1965, c. 130, s. 8 (2); 1970, c. 9, s. 7 (2).

Idem, from dealer's debtors

(3) The Minister may, for any purpose related to the administration or enforcement of this Act and the regulations, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any amount to a dealer, or from any partner, agent or official of any such person, partnership, syndi-

cate, trust or corporation, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein. 1965, c. 130, s. 8 (3); 1970, c. 9, s. 7 (3).

Authority to enter and search

(4) The Minister may, for any purpose related to the administration or enforcement of this Act and the regulations, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon an *ex parte* application, authorize in writing any officer of the Department of Revenue, together with such members of the Ontario Provincial Police Force or other peace officers as he calls upon to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the contravention of any provision of this Act or the regulations, and to seize and to take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. 1965, c. 130, s. 8 (4); 1970, c. 9, s. 7 (4).

Production of records, etc.

(5) The Minister may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer, for the purpose of determining what tax, if any, is collectable or payable under this Act by any dealer or consumer, and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. 1965, c. 130, s. 8 (5); 1970, c. 9, s. 7 (5).

Copies

(6) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced, or any officer of the Department of Revenue, may make, or cause to be made, one or more copies thereof, and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this subsection is admissible in evidence and has the same probative force as the original document would have had if it had been proved in the ordinary way. 1965, c. 130, s. 8 (6); 1970, c. 9, s. 7 (6).

Interference

(7) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do, or prevent or attempt to prevent any person doing any such thing. 1965, c. 130, s. 8 (7).

Inventory report

(8) The Minister at any time for any purpose related to the administration or enforcement of this Act and the regulations may require a dealer to complete an inventory report showing all tobacco in his possession in respect of which the tax imposed by this Act has not been paid. 1970, c. 9, s. 7 (7).

Inquiry

10.—(1) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, authorize any person to make such inquiry as the Minister considers necessary with reference thereto. 1965, c. 130, s. 9 (1); 1970, c. 9, s. 8, *amended*.

Powers

(2) For the purpose of an inquiry under subsection 1, the person authorized to make the inquiry has all the powers and authority that may be conferred upon a commissioner under *The Public Inquiries Act*. 1965, c. 130, s. 9 (2).

R.S.O. 1970, c. 379

False returns

11.—(1) Every person charged with the collection of the tax imposed by this Act and every officer, agent or employee of every such person who signs any return or statement required by this Act or the regulations containing any false statement is guilty of an offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Idem, corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein. 1965, c. 130, s. 10.

Information to be secret

12.—(1) Subject to subsection 2, no person employed by the Government of Ontario shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any written statement furnished under this Act. 1965, c. 130, s. 11 (1).

Communication of information to other jurisdictions

(2) The Minister may,

(*a*) communicate or allow to be communicated information obtained under this Act; or

(*b*) allow inspection of or access to any written statement furnished under this Act,

to any person employed by the government of Canada or any province of Canada, provided that the information and written statements obtained by such government for the purpose of any Act that imposes a tax are communicated or furnished on a reciprocal basis to the Minister, and provided that the information and written statements will not be used for any purpose other than the administration or enforcement of a federal or provincial

law that provides for the imposition of a tax. 1965, c. 130, s. 11 (2); 1970, c. 9, s. 9.

General penalty

13. Every person who contravenes any of the provisions of this Act or the regulations for which no other penalty is provided is guilty of an offence and on summary conviction is liable, for a first offence, to a fine of not less than $100 and not more than $500 or to a term of imprisonment of not less than ten days and not more than thirty days, or to both, and, for any subsequent offence, to a fine or not less than $500 and not more than $1,000 or to a term of imprisonment of not less than three months and not more than six months, or to both. 1965, c. 130, s. 12.

Information to be laid within three years

14. Any information with respect to any contravention of this Act or the regulations may be laid within three years from the time when the matter of such information arose, and not afterwards. 1965, c. 130, s. 13.

Disposition of fines

15. The fines imposed for offences under this Act are payable to the Treasurer. 1965, c. 130, s. 14.

Regulations

16. The Lieutenant Governor in Council may make regulations,

(*a*) providing for the collection of the tax imposed by this Act and designating the persons by whom it is to be collected;

(*b*) prescribing the remuneration to be paid to the persons who collect the tax imposed by this Act;

(*c*) requiring surety bonds to be furnished by the persons who collect the tax imposed by this Act, and prescribing the form and amount of such bonds;

(*d*) providing for the accounting for and paying over of the tax imposed by this Act, and regulating the time and manner of such accounting and payment;

(*e*) prescribing the returns and statements to be made by importers, manufacturers and dealers of tobacco, the information to be given in such returns and statements, and by whom and in what manner they are to be made;

(*f*) providing for the extension of time for making returns;

(*g*) establishing a system of permits for wholesale dealers;

(*h*) respecting agreements between the Minister and the persons who collect the tax imposed by this Act, and providing for their use;

(*i*) prescribing the rate of interest payable on accounts payable to or to be remitted to the Treasurer under this Act;

(j) excluding any class of tobacco products from this Act;

(k) exempting any class of persons from the payment of the tax imposed by this Act;

(l) providing for the refund of the whole or any part of the tax paid under this Act, and prescribing the records and material to be furnished upon any application for a refund;

(m) providing for the appointment of such inspectors, officers and other persons as may be necessary for the proper carrying out of this Act;

(n) prescribing forms and providing for their use;

(o) authorizing or requiring the Deputy Minister or any other officer of the Department of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;

(p) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1965, c. 130, s. 16; 1970, c. 9, s. 11.

CHAPTER 464

The Toll Bridges Act

Interpretation

1. In this Act,

(*a*) "Minister" means the Minister of Highways or such other member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;

(*b*) "toll bridge" means a bridge designated under section 2;

(*c*) "vehicle" means a motor vehicle, motorcycle, trailer, traction-engine, farm tractor or road-building machine and includes any other vehicle drawn, propelled or driven by other than muscular power. R.S.O. 1960, c. 401, s. 1.

Designation as toll bridge

2. The Lieutenant Governor in Council may designate the Skyway over the Burlington Canal, the Fort Frances Causeway, and bridge over or tunnel under the Welland Canal or any international bridge or tunnel as a toll bridge. R.S.O. 1960, c. 401, s. 2.

User of toll bridge to pay tolls

3.—(1) No person shall take or operate a vehicle, other than a vehicle exempted from this Act, upon a toll bridge without paying the toll prescribed for such vehicle.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and on summary conviction is liable for a first offence to a fine of not less than $5 and not more than $10, and for a second or subsequent offence to a fine of not less than $10 and not more than $50. R.S.O. 1960, c. 401, s. 3.

Regulations

4. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing classes of vehicles for the purposes of this Act;

(*b*) exempting any class of vehicles from this Act;

(*c*) prescribing the toll to be paid for any vehicle or class of vehicle taken or operated upon any toll bridge or different tolls for different toll bridges;

(*d*) providing for the collection of tolls and the disposition thereof;

(*e*) establishing authorities to manage toll bridges either alone or in conjunction with any Canadian or foreign authority;

(*f*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 401, s. 4.

Agreements re international bridges and tunnels

5. The Minister may on behalf of Her Majesty in right of Ontario enter into agreements with any Canadian or foreign authority for the joint financing, construction or operation of any international bridge or tunnel and for any matter incidental thereto. R.S.O. 1960, c. 401, s. 5.

CHAPTER 465

The Toronto Stock Exchange Act

Interpretation

1. In this Act,

(*a*) "Corporation" means The Toronto Stock Exchange;

(*b*) "exchange" means the stock exchange operated by the Corporation;

(*c*) "public director" means a member of the board of directors of the Corporation elected under subsection 2 of section 7. 1968-69, c. 132, s. 1.

Corporation continues

2. The Toronto Stock Exchange, incorporated by *An Act to incorporate the Toronto Stock Exchange*, being chapter 65 of the Statutes of Ontario, 1878, is continued as a corporation without share capital under the name of "The Toronto Stock Exchange". 1968-69, c. 132, s. 2.

Head office

3. The head office of the Corporation shall be situate in The Municipality of Metropolitan Toronto. 1968-69, c. 132, s. 3.

Object

4.—(1) The object of the Corporation is to operate a stock exchange in Ontario for trading by the members of the Corporation and other persons authorized under subsection 2.

Trading by non-members

(2) The board of directors may authorize persons other than members to trade on the exchange subject to such conditions as are imposed by the board of directors.

Compliance with R.S.O. 1970, c. 426

(3) The Corporation shall operate the exchange in a manner that does not contravene the requirements of *The Securities Act* and the regulations, directions, orders, determinations or rulings made thereunder, and the Corporation may impose any additional or higher requirement within its jurisdiction. 1968-69, c. 132, s. 4.

Non-profit

5. The Corporation shall be carried on without the purpose of gain for its members and any profits or other accretions to the Corporation shall be used in promoting its object. 1968-69, c. 132, s. 5.

Board of directors

6.—(1) The affairs of the Corporation shall be managed by a board of directors, who may be referred to as governors, consisting of,

(*a*) the President of the Corporation;

(*b*) two public directors; and

(*c*) ten persons elected under subsection 3 of section 7.

Vacancies

(2) Notwithstanding any vacancy in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. 1968-69, c. 132, s. 6.

President

7.—(1) The President shall be appointed by the board of directors and may be removed from office by the board of directors only by a vote of two-thirds of the directors then in office.

Public directors

(2) The public directors shall be elected by the board of directors annually by the board of directors at the first meeting of the board following the annual meeting of the Corporation, to hold office until the next annual meeting of the Corporation and any vacancy occurring among the public directors may be filled by the election of another person for the remainder of the term by the directors then in office, but no person is eligible to be elected as a public director if he is a member of the Corporation and unless his nomination for such election has been approved by the Lieutenant Governor in Council on the recommendation of the President.

Elected directors

(3) The directors other than the President and public directors shall be elected by the members yearly in such manner as the by-laws of the Corporation provide. 1968-69, c. 132, s. 7 (1-3), *amended*.

Appointment of officers

8.—(1) All officers of the Corporation other than the chairman of the board of directors, the vice-chairman of the board of directors, the President, the secretary and the treasurer shall be appointed by the board of directors with the approval of the President.

Certain officers not to be members

(2) No officers of the Corporation other than the chairman of the board of directors, the vice-chairman of the board of directors, the secretary and the treasurer shall be members of the Corporation.

Certain officers not to be directors

(3) No officers of the Corporation other than the President, the chairman of the board of directors, the vice-chairman of the board of directors, the secretary and the treasurer shall be directors of the Corporation. 1968-69, c. 132, s. 8.

Duties of President

9. The President shall be the chief executive officer and chief administrative officer of the Corporation. 1968-69, c. 132, s. 9.

10. For the purposes of the object of the Corporation, the board of directors has the power to govern and regulate, Powers of board of directors

(*a*) the exchange;

(*b*) the partnership and corporate arrangements of the members and other persons authorized to trade on the exchange, including requirements as to financial condition;

(*c*) the business conduct of members and other persons authorized to trade on the exchange and of their employees and agents and other persons associated with them in the conduct of business,

and, in the exercise of such powers and in addition to their power to pass by-laws under Part III of *The Corporations Act*, the board of directors may pass such by-laws and make such rules and regulations and issue such orders and directions pursuant to such by-laws as it considers necessary for the purpose, including the imposition of penalties and forfeitures for the breach of any such by-law, rule, regulation, direction or order. 1968-69, c. 132, s. 10 (1). R.S.O. 1970, c. 89

11. *The Corporations Act*, except sections 132 and 342, apply to the Corporation, except, Application of R.S.O. 1970, c. 89

(*a*) to the extent that the provisions thereof are inconsistent with this Act;

(*b*) that a public director may not be removed from office under section 68 of that Act; and

(*c*) that the by-laws of the Corporation may,

(i) fix the class or classes of persons who may be appointed by a proxy to attend and act at meetings of members as nominees of members provided that one such class shall be members,

(ii) provide for and regulate the admission of members, including the requiring of approval by the directors or members, or both, at meetings or individually, and the manner in which such approval is to be given, and

(iii) fix the quorum for meetings of the board at five or any larger number of directors as specified in the by-law. 1968-69, c. 132, s. 11.

12. Nothing in this Act shall be construed to derogate from the powers of the Ontario Securities Commission under *The Securities Act* or any other Act. 1968-69, c. 132, s. 12. Powers of Ontario Securities Commission R.S.O. 1970, c. 426

CHAPTER 466

The Trade Schools Regulation Act

Interpretation

1. In this Act,

(*a*) "Minister" means the Minister of Education;

(*b*) "trade" means the skill and knowledge requisite for or intended for use in the construction, building, repair or operation of aircraft, steam engines, boilers, internal combustion engines or machinery of any kind, and any other occupation, calling or vocation designated as a trade by the regulations;

(*c*) "trade school" means any school or place wherein any trade is taught or purported to be taught, or wherein any course of study by correspondence of a trade is organized, promoted, carried on, taught or purported to be taught other than a university recognized by the Department of Education or a school or course of instruction maintained under any Act of the Legislature. R.S.O. 1960, c. 403, s. 1.

Operation of trade school without registration prohibited

2. No person shall keep or operate a trade school unless he is registered under this Act. R.S.O. 1960, c. 403, s. 2.

Application for registration of trade schools and renewals

3.—(1) Every person desirous of keeping or operating a trade school shall make application for registration or renewal of registration in writing to the Minister in accordance with the regulations.

Certificate of safety

(2) The Minister may require a certificate of a person authorized to inspect a trade school under section 7, certifying as to the safety of the operation and premises of the trade school. R.S.O. 1960, c. 403, s. 3.

Expiration of registration

4. Every registration under this Act expires on the 31st day of December of the year in respect of which the registration is effected. R.S.O. 1960, c. 403, s. 4.

Certificate of registration

5. Upon the applicant for registration or for renewal of registration, as the case may be, complying with the requirements of the Minister and satisfying him that the trade school is provided with competent instructors and sufficient equipment for the teaching of any specified trade or trades, and is furnishing or is

prepared to furnish proper instruction in such trade or trades, at reasonable rates, the Minister may cause the applicant to be registered as the keeper or operator of a trade school for the teaching of the specified trade or trades, and may issue a certificate of registration accordingly. R.S.O. 1960, c. 403, s. 5.

Refusal of registration

6. The Minister may refuse to grant a registration or renewal of registration where, in his opinion, the registration or renewal should not be granted. R.S.O. 1960, c. 403, s. 6.

Power to inspect trade schools

7. The Minister, or any person authorized by him in writing, may inspect any trade school at any time during which it is being kept or operated to determine the safety of the premises and the operation thereof, to observe the method of instruction given therein, and to inspect the business books and records, and all circulars, pamphlets and other material used for advertising the trade school and the instruction afforded therein, and any person who obstructs the Minister or authorized person in making any inspection or observation or who refuses or neglects to produce any business book or record upon demand is guilty of an offence and on summary conviction is liable to a fine of not more than $100, and in default of payment, to imprisonment for a term of not more than two months. R.S.O. 1960, c. 403, s. 7.

Cancellation of registration

8. If, as the result of any inspection of any trade school, or upon being otherwise credibly informed, the Minister is satisfied that a trade school in respect of which registration has been made under this Act is insufficiently provided with the means of instruction or is not safe or that the charges made for the instruction given are unreasonable or that any regulation pursuant to this Act is not observed therein, he may cancel the registration, and thereupon the registration and the certificate thereof are void. R.S.O. 1960, c. 403, s. 8.

Offences

9.—(1) Every person who,

(*a*) keeps or operates a trade school at a time when he is not registered under this Act as the keeper or operator of that trade school; or

(*b*) keeps or operates a trade school for the purpose of giving instruction in a trade not specified in his certificate of registration; or

(*c*) enters into any contract for the furnishing of instruction in a trade other than the contract set out in the application for registration, or a contract that has been approved by the Minister; or

(*d*) whether acting as the owner or operator of a trade school or as an agent or representative thereof, or otherwise, sells or offers to sell instruction or a course of instruction

in any trade, unless such instruction or course of instruction is a course of instruction specified in the certificate of registration of a trade school registered under this Act, and unless in the case of a sale, such sale is evidenced by a contract in a form approved by the Minister; or

(*e*) is knowingly responsible for the contravention of any of the provisions of this Act or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000 for a first offence and not more than $2,000 for a second or subsequent offence and in case of either a first, second or subsequent offence, either in default of payment of any fine imposed or in addition to any such fine, to imprisonment for a term of not more than six months.

Increase in fines

(2) Subsection 1 shall be deemed to apply *mutatis mutandis*, to any company except that the fines may be increased in the discretion of the provincial judge to not more than $25,000. R.S.O. 1960, c. 403, s. 9, *amended*.

Court proceedings

10. No person who is not registered as the keeper or operator of a trade school under this Act is capable of maintaining an action or other proceeding in any court in Ontario in respect of any contract made in whole or in part within Ontario or against any person domiciled in Ontario in the course of or in connection with business carried on by any trade school. R.S.O. 1960, c. 403, s. 10.

Regulations

11. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the security to be provided by the keeper or operator of any trade school for the due performance of his contracts and providing for the forfeiture of such security or a part thereof and for the disposition of the proceeds;

(*b*) respecting applications for registration and renewals of registration;

(*c*) prescribing the accommodation and equipment required by trade schools and the means of instruction to be used;

(*d*) requiring the approval of the Minister for courses of study, requirements for admission, qualifications of teachers, methods of instruction, and premises and equipment used, in connection with a trade school;

(*e*) prescribing the minimum number of hours of instruction in any trade that shall constitute a course of instruction in that trade;

(*f*) prescribing the maximum fees that shall be paid or received for a course of instruction in any trade;

(*g*) prescribing the terms and conditions upon which money paid for or on account of instruction in any trade school shall be either retained by the payee or be repayable to the payer;

(*h*) prohibiting the use of any advertising relating to any trade school that may tend to mislead, and requiring the discontinuance of any specified advertisement or means of advertisement by the keeper or operator of any trade school;

(*i*) regulating the selling or offering for sale of any course of instruction offered by a trade school;

(*j*) prescribing the amount that may be asked, charged or received from the public for any article produced entirely or in part in any trade school, or for the material used by or for the services of any employee or student of the trade school;

(*k*) limiting the number or amount of articles, goods or commodities produced in any trade school so that it may not compete unfairly with the production of similar articles, goods or commodities in any factory or shop;

(*l*) fixing the times during which the public may obtain service in any trade school;

(*m*) designating any occupation, calling or vocation as a trade within the meaning of this Act;

(*n*) exempting any trade or trade school from the operation of this Act and the regulations;

(*o*) fixing the fees that shall be payable on applications for registration or renewal of registration under this Act;

(*p*) providing, in the case of any specified trade school, that no certificate or other document as to the competency of any person shall be issued by that trade school unless that person has submitted himself to such examination and by such persons as may be prescribed by the regulations, and prescribing fees for such examination and certificate;

(*q*) providing for the making of annual returns and the furnishing of information to the Minister by the keepers and operators of trade schools;

(*r*) prescribing forms and providing for their use;

(*s*) generally, as to the conduct, operation and management of trade schools, and the nature of any examinations for certificates of competency, the manner, times, and places of holding such examinations, and the persons

who shall sit as examiners. R.S.O. 1960, c. 403, s. 11; 1968-69, c. 133, s. 1.

Trades under R.S.O. 1970, c. 24

12. No trade school for a trade for which an apprenticeship training program is established under *The Apprenticeship and Tradesmen's Qualification Act* shall be registered under this Act without the consent of the Minister of Labour. R.S.O. 1960, c. 403, s. 12, *amended*.

Appointment of staff

13. For the purpose of carrying out the provisions of this Act, the Lieutenant Governor in Council may appoint such officers as may be considered necessary or expedient. R.S.O. 1960, c. 403, s. 13.

CHAPTER 467

The Training Schools Act

Interpretation

1. In this Act,

(*a*) "Department" means the Department of Correctional Services;

(*b*) "foster home" means a foster home designated under section 19;

(*c*) "home" means a foster home or home of the parent to which a child is transferred from a training school while a ward of such training school;

(*d*) "inspector" means an officer of the Department designated as such by the Minister;

(*e*) "judge" means a provincial judge;

(*f*) "Minister" means the Minister of Correctional Services;

(*g*) "Ontario training school" means a training school established under section 3;

(*h*) "parent" means a person who is under a legal duty to provide for a child;

(*i*) "private training school" means a training school established under section 4;

(*j*) "regulations" means the regulations made under this Act;

(*k*) "society" means a religious society, organization or order or a charitable or philanthropic organization;

(*l*) "superintendent" means the superintendent or other person in charge of a training school;

(*m*) "training school" means an Ontario training school or a private training school. 1965, c. 132, s. 1; 1968, c. 138, s. 1, *amended*.

Purpose of training school

2. The purpose of a training school is to provide the children therein with training and treatment and with moral, physical, academic and vocational education. 1965, c. 132, s. 2.

Ontario training schools

3.—(1) The Lieutenant Governor in Council may provide for the establishment of Ontario training schools.

Property

(2) All real property and chattels acquired by purchase, gift or otherwise and for the use of Ontario training schools are vested in the Crown, represented by the Minister of Public Works.

Cost

(3) The cost of establishing and maintaining Ontario training schools shall be paid out of such moneys as are appropriated therefor by the Legislature, and all revenues from whatsoever source derived by or pertaining to Ontario training schools shall form part of the Consolidated Revenue Fund. 1965, c. 132, s. 3.

Private training schools

4.—(1) The Lieutenant Governor in Council may authorize any society to establish and maintain a private training school, and, subject to the other provisions of this Act, a society so authorized is responsible for the maintenance in proper condition of the training school, its premises and equipment, and the Lieutenant Governor in Council may cancel any such authority for any reason that in his opinion warrants such cancellation.

Approval of plans and sales

(2) A society shall not erect, acqiire, establish, change the site of, add to or structurally alter a private training school until the site and plans thereof have been approved by the Minister, and a society shall not sell or dispose of the premises of a private training school, or any part thereof, until the sale or disposal has been approved by the Minister.

Granting or leasing of land

(3) Any religious corporation may set apart and grant or lease for a nominal consideration or otherwise for the purposes of a private training school any land that it has a general power to dispose of for religious, charitable or educational purposes without being deemed guilty of a breach of trust. 1965, c. 132, s. 4.

Name

5. A training school shall bear such name or other designation as is approved by the Lieutenant Governor in Council. 1965, c. 132, s. 5.

Advisory Board

6.—(1) There shall be a board of not more than five members to be known as The Training Schools Advisory Board, the members of which shall be appointed by the Lieutenant Governor in Council and shall hold office during pleasure, and the Lieutenant Governor in Council may designate one of the members to be chairman of the Advisory Board.

Secretary

(2) The Minister may appoint a secretary for the Advisory Board.

Meetings

(3) The Advisory Board shall meet at the call of the Minister or the chairman.

Advisory Board to act in advisory capacity

(4) The Advisory Board shall act in an advisory capacity to the Minister and, when so requested by him, shall consult with him as to the administration of this Act and of training schools. 1965, c. 132, s. 6.

(5) The Advisory Board shall, by visiting and otherwise investigating training schools, ascertain the condition thereof and the welfare of the children therein, and shall report to the Minister and make such recommendations as it considers advisable. Investigation of training schools

(6) The members of the Advisory Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a *per diem* allowance to be payable to each member, and every member is entitled to his reasonable and necessary travelling expenses, as certified by the chairman, for attendance at meetings and in the transaction of the business of the Advisory Board. 1965, c. 132, s. 6. Allowance as member of Advisory Board

7.—(1) Every training school shall be inspected at least twice a year by an inspector, who shall be given free access to all parts of its premises and to all its books and records and who shall make such inquiries as are necessary to determine the training and welfare of the staff and wards therein, and, in the case of a private training school, the inspector also has authority to inspect the books and records of the society maintaining the training school in so far as they relate to the training school. Inspection of training schools

(2) The Minister may request any inspector or other officer of the Department or employee of any other department to conduct an inspection of any training school for any special purpose, and, for the purposes of the inspection, such inspector, officer or employee has the same powers as an inspector under subsection 1. Minister may request inspection of training school

(3) The inspector and any other person who conducts an inspection under this section shall make such reports as the Minister requires. 1965, c. 132, s. 7. Reports on inspections

8.—(1) Upon the application of any person, a judge may order in writing that a child under sixteen years of age at the time the order is made be sent to a training school where the judge is satisfied that, Certain children under 16 may be sent to a training school

(*a*) the parent or guardian of the child is unable to control the child or to provide for his social, emotional or educational needs;

(*b*) the care of the child by any other agency of child welfare would be insufficient or impracticable; and

(*c*) the child needs the training and treatment available at a training school,

and the order shall state the facts upon which the decision is based.

(2) Where an application is made under subsection 1, the judge shall, Proceedings before judge

(*a*) hear the child; and

(*b*) hear the evidence of or on behalf of the person who has submitted the application and make adequate inquiry into the truth of such evidence. 1965, c. 132, s. 8 (1, 2).

Evidence to be under oath and transcribed

(3) The evidence shall be given under oath and shall be taken down and transcribed,

(*a*) by the court stenographer, where the court has a court stenographer; and

(*b*) by a stenographer appointed by the judge, where the court does not have a court stenographer. 1965, c. 132, s. 8 (3), *amended*.

Hearing in private

(4) The judge shall hear all cases coming before him under this section *in camera*. 1965, c. 132, s. 8 (5).

Other cases

9. A judge may order that a child be sent to a training school where,

(*a*) the child is at least twelve years of age and under sixteen years of age at the time the order is made; and

(*b*) the child has contravened any statute in force in Ontario, which contravention would be punishable by imprisonment if committed by an adult. 1965, c. 132, s. 9.

All admissions to be in accordance with this Act

10. A child shall not be admitted to a training school except in accordance with this Act. 1965, c. 132, s. 10.

Contents of order

11. The judge in his order sending a child to a training school shall state, where practicable, the name, age and religious faith of the child. 1968, c. 138, s. 3.

Copy of evidence to superintendent and Department

12.—(1) Where a judge orders that a child be sent to a training school, the judge shall cause a copy of the evidence taken before him to be sent to the superintendent of the training school and a copy to be sent to the Department. 1965, c. 132, s. 12 (1).

Clerk to mail copies of order

(2) The clerk of the court shall send by registered mail a certified copy of the order to the parent of the child, to the Department and to any other person the judge considers necessary. 1965, c. 132, s. 12 (2); 1968, c. 138, s. 4.

Appeal to county or district court

13.—(1) A decision under section 8 granting or refusing an order to send a child to a training school may be appealed to the judge of the county or district court of the county or district in which the application was made, but, where the judge who made the decision is a county or district court judge, the appeal shall be

heard and disposed of by any other county or district court judge in the same county or district court district.

(2) A decision under section 9 may be appealed to a judge of the Supreme Court. 1965, c. 132, s. 13. Appeal to Supreme Court judge

14. An appeal under this Act on behalf of a child may be made at the instance of a next friend. 1965, c. 132, s. 18 (2). Appeal by next friend

15. As far as practicable, a Roman Catholic child shall be sent to such training school maintained by a Roman Catholic society or to such Ontario training school designated by the Minister as non-denominational as is determined by the regulations, and a child of any other religious faith shall be sent to such Ontario training school or such private training school, other than one maintained by a Roman Catholic society, as is determined by the regulations. 1965, c. 132, s. 14. Religion of child to be considered

16. Every child sent to a training school shall be taken to the training school by a probation officer or other person designated by the judge in his order. 1965, c. 132, s. 15 (1); 1968, c. 138, s. 5 (1). Transportation of children to training school

17.—(1) Upon admission to a training school, a child becomes a ward of the training school, and the superintendent may exercise the rights and duties of a guardian for the purpose of the care, custody and control of the child. Wardship of training school

(2) During the period that a child is a ward of a training school, the rights and duties of the child's parent or any other guardian in respect of the care, custody and control of the child are suspended. Rights of other guardians

(3) The Minister may, upon or at any time after the release of a child from a training school, order that the wardship of the training school shall cease. Termination of wardship by Minister

(4) The wardship of the training school shall continue until the child attains the age of eighteen years unless the Minister orders that the wardship shall cease before such date. 1965, c. 132, s. 23. Termination of wardship upon child attaining 18 years of age

18. A clergyman of the religious faith to which a child appears to belong may visit the child at the school for the purpose of instructing him in religion on such days and at such times as may be fixed by the superintendent. 1965, c. 132, s. 24. Visits by clergymen

19.—(1) The Minister or any officer of the Department designated in writing by the Minister may, Powers of Minister

(*a*) designate foster homes for the purposes of this Act;

(*b*) order a child to be transferred,

(i) from one training school to another or to a home, or

(ii) from one home to another or to a training school;

(*c*) order a child released from a training school upon such conditions as he thinks fit.

Placing-out of children

(2) Where a child is transferred from a training school to a home, the control of the superintendent is not thereby abated or diminished unless the Minister orders that the wardship of the training school shall cease. 1965, c. 132, s. 25.

Apprehension on escape

20. If a child sent to a training school escapes therefrom or neglects to attend thereat, he may, at any time before the termination of wardship, be apprehended without warrant and brought back to a training school. 1965, c. 132, s. 26 (1).

What to be deemed an escape

21. Where a child leaves a home without the permission of the Minister or an officer of the Department designated in writing by the Minister, or refuses to return to the training school, he shall be deemed to have escaped from the training school. 1965, c. 132, s. 26 (2).

Penalties

22. Every person,

(*a*) who aids or abets any child to escape from or unlawfully leave a training school or home;

(*b*) who knowingly harbours or conceals a child who has escaped from or unlawfully left a training school or home, without giving notice of the child's whereabouts to the training school or to the local police authorities; or

(*c*) who knowingly makes, or procures to be made, any false statement in any return required under this Act,

is guilty of an offence and on summary conviction is liable to a fine of not more than $500 or to imprisonment for a term of not more than three months, or to both. 1965, c. 132, s. 27.

Regulations

23. The Lieutenant Governor in Council may make regulations,

(*a*) regarding the management, discipline, government and control of training schools and the maintenance of the buildings, premises and equipment thereof;

(*b*) regulating the conduct and discipline of children in training schools;

(*c*) prescribing the type of training, treatment and moral, physical, academic and vocational education to be provided in training schools and setting standards of instruction;

(*d*) prescribing the conditions under which children may leave training schools;

(*e*) for determining the training schools to which children may be sent under section 15;

(*f*) providing for the use in a training school of such products and articles as may be produced on the premises thereof, and for the sale of any surplus products or articles that may be produced or manufactured on the premises thereof;

(*g*) prescribing the records, books, account systems, audits, reports and returns to be kept and made by or pertaining to training schools;

(*h*) prescribing the duties of The Training Schools Advisory Board in addition to those duties mentioned in section 6;

(*i*) prescribing the powers and duties of superintendents, including the control that they may exercise over the children under their care;

(*j*) providing for the apportionment and distribution of grants to societies maintaining private training schools out of moneys appropriated therefor by the Legislature and for the conditions governing the payment thereof;

(*k*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1965, c. 132, s. 28; 1968, c. 138, s. 9.

CHAPTER 468

The Trees Act

TREES ON BOUNDARY LINES

1. In this Act, Interpretation

(*a*) "county" includes a district municipality and a regional municipality;

(*b*) "forestry purposes" includes the production of wood and wood products, provision of proper environmental conditions for wildlife, protection against floods and erosion, recreation, and protection and production of water supplies. 1970, c. 115, s. 1.

2. An owner of land may, with the consent of the owner of adjoining land, plant trees on the boundary between such lands, and every tree so planted shall be the common property of the owners. R.S.O. 1960, c. 406, s. 2. Trees on boundary lines

3. Every person who ties or fastens any animal to or injures or destroys any tree growing for the purposes of shade or ornament upon a boundary line between lands, or who suffers or permits any animal in his charge to injure or destroy or who trims, cuts down or removes any such tree without the consent of the owners thereof, is guilty of an offence and on summary conviction is liable to a fine of not more than $25. R.S.O. 1960, c. 406, s. 3. Injuring trees

TREES CONSERVATION

4. Subject to the approval of the Minister of Lands and Forests, the council of any county, or any municipality separated from the county for municipal purposes, or any municipality in a territorial district, may pass by-laws, By-law restricting cutting of trees

(*a*) restricting and regulating the destruction of trees by cutting, burning or other means; and

(*b*) providing for the appointment of officers to enforce the provisions of any by-law passed under this section. R.S.O. 1960, c. 406, s. 4.

5. A by-law passed under section 4 does not, Exceptions

(*a*) interfere with the right of a person who has been the registered owner of land for at least two years to cut trees thereon for his own use;

R.S.O. 1970, c. 284

(*b*) interfere with any rights or powers conferred upon a municipality by *The Municipal Act*;

(*c*) interfere with any rights or powers of The Hydro-Electric Power Commission of Ontario or of any other board or commission that is performing its functions for or on behalf of the Government of Ontario;

(*d*) apply to trees growing upon any highway or upon any opened road allowance; or

(*e*) apply to trees growing in a woodlot having an area not exceeding two acres. R.S.O. 1960, c. 406, s. 5.

Offence

6. Every person who contravenes the provisions of any by-law passed pursuant to section 4 is guilty of an offence and on summary conviction is liable to a fine of not more than $500 or to imprisonment for a term of not more than three months. R.S.O. 1960, c. 406, s. 6.

MUNICIPAL REFORESTATION

County by-laws for acquiring lands for forestry purposes

7. The council of any county may pass by-laws,

(*a*) for acquiring by purchase, lease or otherwise land for forestry purposes;

(*b*) for declaring land that is owned by the municipality to be required by the municipality for forestry purposes;

(*c*) for planting and protecting trees on any land acquired for or declared to be required for forestry purposes;

(*d*) for the management of any land acquired for or declared to be required for forestry purposes and the sale or other disposition of the trees thereon;

(*e*) for the issuing of debentures, without the assent of the electors but subject to the approval of the Ontario Municipal Board, from time to time for the purpose of providing for the purchase of land for forestry purposes to an amount not exceeding $25,000 to be owing at any one time;

(*f*) for entering into agreements for the management of any land acquired for or declared to be required for forestry purposes;

(*g*) for leasing, selling or otherwise disposing of any land acquired for or declared to be required for forestry purposes. R.S.O. 1960, c. 406, s. 7.

Payment in lieu of taxes

8. The council of a county may agree to pay annually to the council of a municipality in which the county owns land acquired or declared to be required for forestry purposes a sum not exceeding the amount that would have been payable to the

municipality as taxes if the land were not exempt from taxation. 1964, c. 118, s. 1.

Powers of certain local municipalities

9.—(1) The council of any city, town, village or township, having a population of not less than 10,000, has all the powers, privileges and authority conferred on the council of a county by section 7.

Acquisition of land in another municipality

(2) Land may be acquired under subsection 1 in another municipality with the consent of the council thereof.

Payments

(3) Where a municipality acquires land in another municipality under this section, the council of the first-mentioned municipality may agree to pay annually to the municipality in which the land is situate a sum not exceeding the amount that would have been payable to the municipality as taxes if the land were not exempt from taxation. R.S.O. 1960, c. 406, s. 8.

Powers of township councils

10.—(1) The council of any township having a population of less than 10,000 has all the powers, privileges and authority conferred by clauses *a*, *b*, *c*, *d*, *f* and *g* of section 7 on the council of a county.

Idem

(2) The council of any township may levy by special rate a sum not exceeding $1,000 in any year for the purpose of providing for the purchase of such land. R.S.O. 1960, c. 406, s. 9.

Agreements as to reforestation areas

11.—(1) The council of any township may enter into agreements with the owners of lands located in the township providing for,

(*a*) the reforestation of portions of such lands;

(*b*) the entry and planting of trees upon such portions by the servants or agents of the council; and

(*c*) the fencing of such portions and conservation of all growing trees thereon by the owner.

Acreage

(2) No such agreement shall provide for the reforestation of less than five acres of land for every one hundred acres belonging to the same owner.

Cutting

(3) Every such agreement shall prescribe the conditions under which the cutting of timber upon such portions may be carried out and such conditions are subject to the approval of the Minister of Lands and Forests.

Exemption from taxation

(4) The council of the township may exempt any such portion from general taxation as long as it continues to be used for the purposes set out in the agreement.

Agreements with Ministers of Labour

(5) The council of the township may enter into agreements with the Minister of Labour for Canada and the Minister of Labour for Ontario regulating the conditions of labour and the

payment of wages in respect of labour performed in connection with the planting and conservation of trees in such portions. R.S.O. 1960, c. 406, s. 10.

Approval of by-law by Minister

12. No by-law shall be finally passed under section 7, 8, 9, 10 or 11 until approved in writing by the Minister of Lands and Forests. R.S.O. 1960, c. 406, s. 11; 1964, c. 118, s. 2.

CHAPTER 469

The Trench Excavators' Protection Act

1. In this Act, Interpretation

(*a*) "chief officer" means the officer of the Department of Labour designated by the Deputy Minister of Labour as chief officer for the purposes of this Act;

(*b*) "constructor" means a person who contracts with an owner for the work on a trench, and includes an owner who undertakes the work on a trench;

(*c*) "depth" means the vertical dimension from the highest point of an excavation to a point level with the lowest point of the excavation;

(*d*) "inspector" means an inspector appointed under this Act or under a municipal by-law for the purpose of enforcing this Act;

(*e*) "owner" means the person for whose benefit a trench is to be excavated;

(*f*) "regulations" means the regulations made under this Act;

(*g*) "trench" means any excavation in the ground where the vertical dimension from the highest point of the excavation to a point level with the lowest point of the excavation exceeds the least horizontal dimension of the excavation, such dimensions being taken in a vertical plane at right angles to the longitudinal centre line of the excavation. R.S.O. 1960, c. 407, s. 1; 1965, c. 133, s. 1.

2. Subject to section 3, this Act and the regulations apply to every trench, including any trench of the Crown or of any agency of the Crown or of any municipality as defined in *The Department of Municipal Affairs Act*. 1965, c. 133, s. 2. Where Act applies

R.S.O. 1970, c. 118

3. This Act does not apply, Application

(*a*) to any part of a trench where the trench is four feet or less in depth;

(*b*) to a trench where the work therein is done only by the owner thereof in person;

(*c*) to a trench into which no person is required to enter for any purpose;

(*d*) to a part of a trench excavated for a pipe line or conduit

if the trench is mechanically excavated, if the sections of the line or conduit are permanently assembled before being mechanically placed in the trench, and if the trench is mechanically back-filled;

R.S.O. 1970, c. 274

(*e*) to a mine within the meaning of *The Mining Act*;

(*f*) to a cutting for the right of way of a highway or railroad;

(*g*) to a shaft, tunnel, caisson or coffer dam to which any regulation under subsection 1 of section 11 of *The Department of Labour Act*, as amended or remade from time to time, applies;

R.S.O. 1970, c. 117

(*h*) to an excavation made for the burial of a deceased person. R.S.O. 1960, c. 407, s. 2; 1965, c. 133, s. 3.

Inspectors, in municipalities

4.—(1) The council of every local municipality shall, by by-law, appoint one or more inspectors to enforce this Act in the municipality. R.S.O. 1960, c. 407, s. 3 (1).

Provincial inspectors

(2) There shall be one or more provincial inspectors who shall,

(*a*) instruct, advise and assist municipal inspectors in carrying out their duties under this Act; and

(*b*) enforce this Act and the regulations in territory without municipal organization. 1965, c. 133, s. 4.

Certificate of appointment

5.—(1) There shall be issued to every inspector a certificate of appointment signed by the clerk of the municipality or the Deputy Minister of Labour, as the case may be. 1965, c. 133, s. 5, *part*, *amended*.

Production of certificate

(2) When carrying out any of his duties under this Act, an inspector shall produce his certificate of appointment, if such is requested. 1965, c. 133, s. 5, *part*.

Power of entry

6.—(1) An inspector may enter any land for the purpose of carrying out an inspection under this Act.

Obstruction of inspector

(2) No person shall obstruct an inspector in the performance of his duties or furnish him with false information. R.S.O. 1960, c. 407, s. 4.

Order of inspector

7.—(1) Where an inspector finds that any provision of this Act or the regulations is being contravened, he may give such order in writing as he thinks necessary to secure compliance therewith and, until such order is carried out, the work upon that part of the trench in which the contravention occurs shall be suspended, other than such work as is necessary to carry out the order with safety. R.S.O. 1960, c. 407, s. 5 (1); 1965, c. 133, s. 6 (1).

Offence

(2) Every person to whom an order of an inspector is directed

who contravenes or knowingly permits any person under his direction or control to contravene such order or to carry on work in contravetnion of subsection 1 is guilty of an offence against this Act. R.S.O. 1960, c. 407, s. 5 (2); 1965, c. 133, s. 6 (2).

Inspector to be notified of proposed trench

8.—(1) The contructor shall before commencing work on a trench give notice in writing to an inspector appointed to enforce this Act in the jurisdiction in which the trench is to be excavated stating,

(*a*) his name and address and the name and address of the owner of the trench;

(*b*) the location of the trench;

(*c*) the particulars as to the length, depth and width of the trench;

(*d*) the particulars known to the constructor of the type and condition of the soil, and the location of any pipes, conduits or prior excavations in or near the trench;

(*e*) the proposed date of commencing work on the trench; and

(*f*) the name and address of the person who will be in charge of the work on the trench. 1965, c. 133, s. 7 (1).

Exception

(2) Notwithstanding subsection 1, where it is necessary to excavate a trench immediately in order to permit the making of a repair or to take other action to prevent injury to persons or damage to property, work on the trench may be commenced without compliance with subsection 1 but in any such case the notice shall be given to the inspector as soon as practicable. R.S.O. 1960, c. 407, s. 6 (2).

Where chief officer to be notified

(3) Where the length of a trench to be excavated is 100 feet or more, a copy of the notice required by subsection 1 shall be given to the chief officer by the constructor before commencing work on the trench. 1965, c. 133, s. 7 (2).

Annual report of municipal inspector

9.—(1) Every municipal inspector or, where there is more than one, the senior in appointment shall prepare and submit to his council a report on or before the 31st day of January of each year in respect of the previous calendar year, and such report shall contain,

(*a*) the number of inspectors appointed by the municipality;

(*b*) the number of notices received under section 8;

(*c*) the total length of trenches referred to in the notices received under section 8;

(*d*) the number of informations laid for offences under this Act;

(*e*) the nature of such offences and the number of convictions made with respect thereto and the penalties imposed;

(*f*) the number of persons fatally injured in connection with work on trenches, and the causes of such fatalities;

(*g*) the number of orders made under section 7 and the number of work stoppages ordered;

(*h*) such other matters as are prescribed.

Idem

(2) Every municipal inspector who submits a report under subsection 1 shall forthwith send a copy thereof to the chief officer. 1965, c. 133, s. 8.

Duties of constructor

10. It is the duty of a constructor,

(*a*) to ensure that this Act and the regulations are complied with;

(*b*) at least once in each eight-hour period that a person is working in or near a trench to cause to be inspected by a person well experienced in such work,

(i) the condition of the trench,

(ii) the shoring and timbering provided for the safety of any person in or near the trench,

(iii) the soil or rock piled and equipment stored or used in or near the trench, and

(iv) the fences, ladders and other things provided for the safety of any person in or near the trench,

and the person making such inspection shall forthwith take any remedial action that he considers necessary to protect the safety of any person in or near the trench. R.S.O. 1960, c. 407, s. 7; 1965, c. 133, s. 9.

Shoring and timbering

11.—(1) The sides of all trenches exceeding four feet in depth shall be securely shored and timbered with good quality material in accordance with the regulations and the shoring and timbering shall extend at least one foot above the top of the trench, except that where the inspector gives permission in writing to the person in charge of the work in connection with the trench, the shoring and timbering need not extend above the top of the trench.

Application

(2) Subsection 1 does not apply where the trench is cut in solid rock or where the trench is excavated in hard and solid soil and does not exceed six feet in depth or where the sides of the trench are sloped to within four feet of the bottom of the trench so that the sloped sides of the trench do not have more than one foot of vertical rise to each foot of horizontal run.

Trench with sloping sides

(3) Where the sides of a trench are sloped as described in subsection 2 but not to within four feet of the bottom of the

trench, the vertical walls of the trench shall be shored and timbered with good quality material in accordance with the regulations and the shoring and timbering shall extend at least one foot above the vertical walls and be fitted with toe-boards to prevent material rolling down the slope and falling into the part of the trench with vertical walls.

Drawings for shoring and timbering

(4) Drawings and specifications for the shoring and timbering of all trenches to exceed thirty feet in depth and all trenches to exceed twelve feet in width shall be submitted in duplicate to the inspector appointed to enforce this Act in the jurisdiction in which the trench is to be excavated and the trench shall not be commenced until the drawings and specifications have been approved by the inspector and the shoring and timbering shall conform to such approved plans.

When shoring and timbering to be done

(5) Shoring and timbering shall be carried along with the excavating of a trench but when conditions permit may be done before the excavating commences.

Removal of shoring

(6) Where the shoring and timbering is to be removed on completion of the other work in a trench, such removal shall be done by or under the personal supervision of a person experienced in removing shoring and timbering. R.S.O. 1960, c. 407, s. 8.

Ladders to be provided

12. Ladders or other means of escape satisfactory to an inspector shall be provided in every trench and such ladders or other means of escape shall be spaced at intervals of not more than fifty feet in each trench and shall extend above the top of the trench. R.S.O. 1960, c. 407, s. 9.

Staging and scaffolding

13.—(1) Where staging or scaffolding, for handling by hand in relays materials excavated from the trench, is erected independently of the shoring or timbering on the sides of the trench, it shall be structurally adequate to protect persons working thereon or in the trench from collapse of the staging or scaffolding or from falling objects.

Idem

(2) Where the staging or scaffolding is attached to the shoring and timbering on the sides of the trench, the shoring and timbering shall be sufficiently reinforced to withstand the additional load thereby imposed on the shoring and timbering. R.S.O. 1960, c. 407, s. 10.

Explosives

14.—(1) The person in charge of work in connection with a trench shall ensure that only a person experienced in handling explosives shall handle, transport, prepare or use explosives in connection with such work, but a person inexperienced in handling explosives may work under the personal supervision of a person experienced in such work. 1965, c. 133, s. 10.

Posting of names

(2) The person in charge of work in connection with a trench

shall post up in the field office and at the magazines the names of all persons designated to handle, transport, prepare or use dynamite or other high explosives.

Blaster designated

(3) The person in charge of work in connection with a trench shall designate one person to be in charge of blasting operations in each section of the trench affected by the blasting operations and such designated person shall enforce his orders and directions and supervise the fixing of all charges and all other blasting operations.

Firing circuits

(4) Every firing circuit in connection with blasting operations shall be broken outside the trench at a point and in a manner satisfactory to an inspector.

Quantity of high explosives in trench

(5) No greater quantity of dynamite or other high explosives than is required for immediate use in a trench shall be taken into a trench. R.S.O. 1960, c. 407, s. 11 (2-5).

Gases in trench

15.—(1) The person in charge of the work in connection with a trench shall take precautions to ensure that no harmful gases or fumes are present in the trench to such a degree as may endanger the health and safety of persons working therein.

Mechanical ventilation required

(2) Where gases and fumes are likely to be present in a trench, or tests show their presence therein, sufficient mechanical ventilation to protect the health and safety of persons working therein shall be provided.

Respiratory protective equipment

(3) Where mechanical ventilation may not adequately supply uncontaminated air for a person in a trench, such person shall be provided with and shall use respiratory protective equipment furnishing air from an uncontaminated source. R.S.O. 1960, c. 407, s. 12.

Gases in trench from internal combustion engine

16. No internal combustion engine shall be operated in a trench unless adequate provisions are made to ensure that exhaust gases and fumes are discharged to a point sufficiently remote from the trench to prevent their return to or accumulation in the trench. R.S.O. 1960, c. 407, s. 13.

Rock-drilling operations

17. Where rock-drilling operations are carried on in a trench, the person in charge of the work in connection with the trench shall ensure that an adequate supply of water is provided at the drill hole to control the dissemination of dust into the breathing zone of the drill operator or other persons working in the trench. R.S.O. 1960, c. 407, s. 14.

Objects in or near trench

18.—(1) No tool, machinery, timber or other object shall be placed in or kept adjacent to a trench in a manner that may endanger the safety of a person in the trench.

(2) No excavated material shall be placed or kept within two feet of the edge of a trench. R.S.O. 1960, c. 407, s. 15. Excavated material

19. No person shall operate a power-driven crane, shovel, back-hoe or any similar machine in such a way that it or any part of its load may pass over a person in or near a trench. 1965, c. 133, s. 11. Power machines

20. The person in charge of the work in connection with a trench shall ensure that no vehicle, machinery or horse is driven or operated or located so close to the edge of a trench in which persons are working as to endanger the stability of the walls of the trench by vibration or otherwise. R.S.O. 1960, c. 407, s. 16. Operation of vehicles, etc., close to trench

21.—(1) No person shall bring any object, including the boom of a crane or its load, within eight feet of an electric power line of more than 750 volts unless he, Objects near power lines

(*a*) ensures that the electric supply is disconnected;

(*b*) ensures that the conductors are insulated; or

(*c*) is using a crane that is equipped,

(i) with a device to automatically warn the operator when the boom is within eight feet of a power line, or

(ii) with insulation to prevent any electrical hazard to the crane operator or persons in the vicinity.

(2) No person shall operate a power-driven crane, shovel, back-hoe or any similar machine closer than the length of the boom of the machine to a power line of more than 750 volts unless he has a person stationed within his view to warn him of danger from the power line. 1965, c. 133, s. 12. Where signalman required

22.—(1) Such fences, guards or barricades as will prevent persons from falling into a trench shall be provided at or near the sides of all trenches and shall be kept in place at all times except when such fences, guards or barricades will interfere with the excavation or other work being done. Guards and barricades

(2) When operations are suspended and during darkness such fences, guards or barricades as will prevent persons from falling into a trench shall be provided at or near the sides of all trenches and all piles of excavated material or other material, tools and machinery shall be marked by lighted lanterns or flares where necessary to prevent accidents. Idem

(3) This section applies only to a trench in or adjacent to a public or private way. R.S.O. 1960, c. 407, s. 17. Application

23. The person in charge of work in connection with a trench shall ensure that no person shall enter or remain in the trench if Persons entering trenches

any of the provisions of this Act or the regulations with respect to such trench are not complied with. 1965, c. 133, s. 13.

Moving or altering fences, etc.

24. No person shall move, alter or destroy any shoring or timbering or any fence, guard or barricade that is required by this Act and the regulations to be provided in connection with a trench for the protection of persons without the permission of the owner of the land on which the trench is excavated or, if the work on the trench is being done by a contractor, without the permission of the contractor. R.S.O. 1960, c. 407, s. 19.

Protective hats

25. No person shall be in or near a trench unless he is wearing a hat manufactured for the purpose of protecting persons from falling objects. 1965, c. 133, s. 14.

Solitary workers

26. No person shall work alone in a trench unless another person is on duty outside the trench in close proximity to the part of the trench in which the other person is working. R.S.O. 1960, c. 407, s. 21; 1965, c. 133, s. 15.

Persons under 16

27. No person under sixteen years of age shall enter or work in a trench. R.S.O. 1960, c. 407, s. 22; 1965, c. 133, s. 16.

Bodily injury

28.—(1) Where an accident, industrial disease, explosion or fire causes bodily injury to a person in or near a trench whereby he is prevented or is likely to be prevented for three days from working and such occurrence does not require notice to an inspector under section 29, a notice in writing of the occurrence shall be given to the chief officer by the person's employer stating,

(*a*) the person's name, age and address;

(*b*) the location, time, nature and cause of the occurrence.

Notice

(2) Such notice shall be given within four days after the occurrence.

Idem

R.S.O. 1970, c. 505

(3) A true copy of the notice required to be given by an employer to the Workmen's Compensation Board by section 117 of *The Workmen's Compensation Act* may be delivered or mailed to the chief officer as sufficient notice under subsection 1. 1965, c. 133, s. 17, *part*.

Fatal accidents

29.—(1) Where a workman in or near a trench is killed or is critically injured, his employer shall immediately notify an inspector by telephone, telegram or in person of the occurrence, and shall, within forty-eight hours after the occurrence, send him a written report of the circumstances of the occurrence.

Notice to chief officer, etc.

(2) An inspector who receives a notice under subsection 1 shall,

(*a*) immediately upon receipt thereof, notify the chief officer by telephone, telegram or in person of the occurrence mentioned in the notice;

(*b*) immediately upon receipt of the employer's report under subsection 1, send a copy thereof to the chief officer; and

(*c*) forthwith investigate the circumstances of the occurrence and, where practicable, determine the cause or causes of the occurrence, and report in writing thereon to the chief officer with his recommendations for preventing a repetition of the occurrence and, where the inspector is a municipal inspector, send a copy of the report to the council of his municipality.

Disturbance of wreckage

(3) Where a person in or near a trench is killed or is critically injured, no person shall, except for the purpose of,

(*a*) saving life or relieving human suffering; or

(*b*) maintaining an essential public utility service or a public transportation system,

interfere with, disturb, destroy, alter or carry away and wreckage, article or thing at the scene of or connected with the occurrence until permission so to do has been given by an inspector. 1965, c. 133, s. 17, *part*.

By-laws

30. Nothing in this Act affects the authority of a municipality to pass by-laws relating to matters mentioned in this Act or affects any such by-law in so far as it imposes additional or more stringent requirements than those imposed by this Act and the regulations. R.S.O. 1960, c. 407, s. 23.

Offence

31.—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than $1,000 or to imprisonment for a term of not more than twelve months, or to both.

Additional penalty

(2) Every person who is convicted of an offence against subsection 2 of section 7 is, in addition to the penalties mentioned in subsection 1, liable to a fine of not more than $100 a day for every day upon which the contravention continued after such order was given.

Penalty for corporations

(3) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed is $5,000 and not as provided therein. 1965, c. 133, s. 18.

Application of fines R.S.O. 1970, c. 6

32. Subject to section 4 of *The Administration of Justice Act*, every fine collected for an offence under this Act committed in a local municipality shall be paid to the treasurer of the local municipality in which the offence was committed, and every fine collected for an offence under this Act committed in territory without municipal organization shall be paid to the Treasurer of

Ontario and shall form part of the Consolidated Revenue Fund. R.S.O. 1960, c. 407, s. 25.

Regulations

33. The Lieutenant Governor in Council may make regulations,

(*a*) regulating the methods of shoring and timbering and the size, composition and arrangement of materials that shall be used therefor;

(*b*) providing for fees to be paid for the inspection of trenches in territory without municipal organization and for the payment of the expenses of inspectors and prescribing the amounts of such fees and expenses to be paid;

(*c*) providing for fees to be paid for the examination of drawings and specifications of shoring and timbering for trenches in territory without municipal organization required to be submitted to an inspector for approval, and prescribing the amounts of such fees;

(*d*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 407, s. 26.

CHAPTER 470

The Trustee Act

1. In this Act, Interpretation

(*a*) "assign" means the execution and performance by a person of every necessary or suitable deed or act for assigning, surrendering, or otherwise transferring land of which such person is possessed, either for the whole estate of the person so possessed or for any less estate, and "assignment" has a corresponding meaning;

(*b*) "contingent right" as applied to land includes a contingent and executory interest, and a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility is or is not ascertained, and also a right of entry whether immediate or future, vested or contingent;

(*c*) "convey" applied to a person means the execution and delivery by such person of every necessary or suitable assurance for conveying or disposing to another land whereof such person is seized, or wherein he is entitled to a contingent right, either for his whole estate or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, and "conveyance" has a corresponding meaning;

(*d*) "devisee" includes the heir of a devisee, and the devisee of an heir, and any person who may claim right by devolution of title of a similar description;

(*e*) "instrument" includes a deed, a will and a written document and an Act of the Legislature, but not a judgment or order of a court;

(*f*) "land" includes messuages, and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be laid out in the purchase of land, and any share of the same hereditaments and properties, or any of them, and any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency;

(*g*) "mental incompetent" or "mentally incompetent person" means any person who has been declared a mentally incompetent person;

(*h*) "mortgage" is applicable to every estate, interest or property, in land or personal estate, that is merely a security for money, and "mortgagee" has a corresponding meaning and includes every person deriving title under the original mortgagee;

(*i*) "person of unsound mind" means any person, not an infant, who, not having been declared a mentally incompetent person, is incapable, from infirmity of mind, to manage his own affairs;

(*j*) "personal estate" includes leasehold estates and other chattels real, and also money, shares of government and other funds, securities for money (not being real estate), debts, choses in action, rights, credits, goods, and all other property, except real estate, which by law devolves upon the executor or administrator, and any share or interest therein;

(*k*) "personal representative" means an executor, an administrator, and an administrator with the will annexed;

(*l*) "possessed" is applicable to any vested estate less than a life estate, legal or equitable, in possession or in expectancy, in any land;

(*m*) "securities" includes stocks, funds and shares;

(*n*) "seized" is applicable to any vested interest for life, or of a greater description, and extends to estates, legal and equitable, in possession, or in futurity, in any land;

(*o*) "stock" includes fully paid-up shares, and any fund, annuity, or security transferable in books kept by any incorporated bank, company or society, or by instrument of transfer, either alone or accompanied by other formalities, and any share or interest therein;

(*p*) "transfer", in relation to stock, includes the performance and execution of every deed, power of attorney, act or thing, on the part of the transferor to effect and complete the title in the transferee;

(*q*) "trust" does not mean the duties incident to an estate conveyed by way of mortgage; but, with this exception, includes implied and constructive trusts and cases where the trustee has some beneficial estate or interest in the subject of the trust, and extends to and includes the duties incident to the office of personal representative of a deceased person, and "trustee" has a corresponding meaning and includes a trustee however appointed and several joint trustees;

(*r*) "will" includes a testament, and a codicil, and an appointment by will, or by writing in the nature of a will in exercise of a power, and also a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of *The Infants Act*, and any other testamentary disposition. R.S.O. 1960, c. 408, s. 1. R.S.O. 1970, c. 222

RETIREMENT OF TRUSTEES

Retirement of trustees

2.—(1) Where there are more than two trustees, if one of them by deed declares that he desires to be discharged from the trust, and if his co-trustees and such other person, if any, as is empowered to appoint trustees, consent by deed to the discharge of the trustee, and to the vesting in the co-trustees alone of the trust property, then the trustee who desires to be discharged shall be deemed to have retired from the trust, and is, by the deed, discharged therefrom under this Act without any new trustee being appointed in his place.

Application of section

(2) This section does not apply to executors or administrators. R.S.O. 1960, c. 408, s. 2.

APPOINTMENT OF NEW TRUSTEES

Power of appointing new trustees

3.—(1) Where a trustee dies or remains out of Ontario for more than twelve months, or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him, or refuses or is unfit to act therein, or is incapable of acting therein, or has been convicted of an indictable offence or is bankrupt or insolvent, the person nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust, or if there is no such person, or no such person able and willing to act, the surviving or continuing trustees or trustee for the time being, or the personal representatives of the last surviving or continuing trustee, may be writing appoint another person or other persons (whether or not being the persons exercising the power) to be a trustee or trustees in the place of the trustee dying, remaining out of Ontario, desiring to be discharged, refusing or being unfit or incapable.

Survivorship

(2) Until the appointment of new trustees, the personal representatives or representative for the time being of a sole trustee, or where there were two or more trustees, of the last surviving or continuing trustee, are or is capable of exercising or performing any power or trust that was given to or capable of being exercised by the sole or last surviving trustee. R.S.O. 1960, c. 408, s. 3.

Authority of surviving trustee to appoint successor by will

4. Subject to the terms of any instrument creating a trust, the sole trustee or the last surviving or continuing trustee appointed for the administration of the trust may appoint by will another person or other persons to be a trustee or trustees in the place of

the sole or surviving or continuing trustee after his death. R.S.O. 1960, c. 408, s. 4.

Power of court to appoint new trustees

5.—(1) The Supreme Court may make an order for the appointment of a new trustee or new trustees, either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee.

Limitation of effect of order

(2) An order under this section and any consequential vesting order or conveyance does not operate as a discharge from liability for the acts or omissions of the former or continuing trustees. R.S.O. 1960, c. 408, s. 5.

What may be done:

6. On the appointment of a new trustee for the whole or any part of trust property,

increase in number

(*a*) the number of trustees may be increased; and

separate trustees for distinct trusts

(*b*) a separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property, notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property, and any existing trustee may be appointed or remain one of such separate set of trustees; or, if only one trustee was originally appointed, then one separate trustee may be so appointed for the first-mentioned part; and

where not less than two to be appointed

(*c*) it is not obligatory to appoint more than one new trustee where only one trustee was originally appointed or to fill up the original number of trustees where more than two trustees were originally appointed; but, except where only one trustee was originally appointed, a trustee shall not be discharged under section 3 from his trust unless there will be a trust company or at least two individuals as trustees to perform the trust; and

execution and performance of requisite deeds and acts

(*d*) any assurance or thing requisite for vesting the trust property, or any part thereof, in the person who is the trustee, or jointly in the persons who are the trustees, shall be executed or done. R.S.O. 1960, c. 408, s. 6.

Powers of new trustee

7. Every new trustee so appointed, as well before as after all the trust property becomes by law or by assurance or otherwise vested in him, has the same powers, authorities and discretions, and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust. R.S.O. 1960, c. 408, s. 7.

Application of Act

8. The provisions of this Act relative to the appointment of new trustees apply to the case of a person nominated trustee in a will but dying before the testator. R.S.O. 1960, c. 408, s. 8.

VESTING INSTRUMENTS

Vesting of trust property in new or continuing trustees without conveyance

9.—(1) Where an instrument, executed after the 1st day of July, 1886, by which a new trustee is appointed to perform any trust, contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust, or in any personal estate so subject, shall vest in the person or persons who, by virtue of such instrument, shall become and be the trustee or trustees for performing the trust, that declaration shall, without any conveyance or assignment, operate to vest in him, or in them as joint tenants, and for the purposes of the trust, that estate, interest or right.

On retirement of a trustee

(2) Where such an instrument, by which a retiring trustee is discharged under this Act, contains such a declaration as is in this section mentioned by the retiring and continuing trustees, and by the other person, if any, empowered to appoint trustees, that declaration shall, without any conveyance or assignment, operate to vest in the continuing trustees alone as joint tenants, and for the purposes of the trust, the estate, interest or right to which the declaration relates.

Application to mortgages, stocks, shares, etc.

(3) This section does not extend to land conveyed by way of mortgage for securing money subject to the trust, or to any share, stock, annuity, or property transferable only in books kept by a company or other body, or in manner prescribed by or under an Act of the Parliament of Canada or of the Legislature.

Interpretation for registration purposes

(4) For the purpose of registration the person or persons making the declaration shall be deemed the conveying party or parties, and the conveyance shall be deemed to be made by him or them under a power conferred by this Act. R.S.O. 1960, c. 408, s. 9.

VESTING ORDERS, ORDERS RELEASING CONTINGENT RIGHTS, ETC.

Vesting orders

10.—(1) In any of the following cases:

(*a*) where the Supreme Court appoints or has appointed a new trustee; or

(*b*) where a trustee entitled to or possessed of any land, or entitled to a contingent right therein, either solely or jointly with any other person is an infant, or is out of Ontario, or cannot be found; or

(*c*) where it is uncertain who was the survivor of two or more trustees jointly entitled to or possessed of any land; or

(*d*) where it is uncertain whether the last trustee known to have been entitled to or possessed of any land is living or dead; or

(*e*) where there is no heir or personal representative of a trustee who was entitled to or possessed of land and has died intestate as to that land, or where it is uncertain who is the heir or personal representative or devisee of a trustee who was entitled to or possessed of land and is dead; or

(*f*) where a trustee jointly or solely entitled to or possessed of any land, or entitled to a contingent right therein, has been required by or on behalf of a person entitled to require a conveyance of the land or a release of the right, to convey the land or to release the right, and has wilfully refused or neglected to convey the land or release the right for fourteen days after the date of the requirement,

the Supreme Court may make an order, vesting the land in any such person in any such manner, and for any such estate, as the court may direct, or releasing, or disposing of the contingent right to such person as the court may direct.

Vesting of estate

(2) Where the order is consequential on the appointment of a new trustee the land shall be vested for such estate as the court may direct in the persons who, on the appointment, are the trustees.

Where trustee out of Ontario

(3) Where the order relates to a trustee entitled jointly with another person, and such trustee is out of Ontario or cannot be found, the land or right shall be vested in such other person, either alone or with some other person. R.S.O. 1960, c. 408, s. 10.

Orders as to contingent rights of unborn persons

11. Where any land is subject to a contingent right in an unborn person, or a class of unborn persons, who, on coming into existence, would, in respect thereof, become entitled to or possessed of the land on any trust, the Supreme Court may make an order releasing the land from the contingent right, or may make an order vesting in any person the estate to or of which the unborn person, or class of unborn persons, would, on coming into existence, be entitled or possessed in the land. R.S.O. 1960, c. 408, s. 11.

Vesting order in place of conveyance by infant mortgagee

12. Where any person entitled to or possessed of land, or entitled to any contingent right in land, by way of security for money, is an infant, the Supreme Court may make an order vesting or releasing or disposing of the land or right in like manner as in the case of an infant trustee. R.S.O. 1960, c. 408, s. 12.

Vesting orders as to stock and choses in action

13.—(1) In any of the following cases:

(*a*) where the Supreme Court appoints, or has appointed, a new trustee; or

(*b*) where a trustee entitled alone, or jointly with another person, to stock or to a chose in action,

(i) is an infant, or

(ii) is out of Ontario, or

(iii) cannot be found, or

(iv) neglects or refuses to transfer stock, or receive the dividends or income thereof, or to sue for or recover a chose in action, according to the direction of the person absolutely entitled thereto, for fourteen days next after a request in writing has been made to him by the person so entitled, or

(v) neglects or refuses to transfer stock, or receive the dividends or income thereof, or to sue for or recover a chose in action for fourteen days next after an order of the Supreme Court for that purpose has been served on him; or

(*c*) where it is uncertain whether a trustee entitled, alone or jointly with another person, to stock or to a chose in action is alive or dead,

the Supreme Court may make an order vesting the right to transfer, or call for a transfer of stock, or to receive the dividends or income thereof, or to sue for or recover a chose in action, in any such person as the court may appoint.

Vesting in new trustee

(2) Where the order is consequential on the appointment by the court of a new trustee, the right shall be vested in the persons who, on the appointment, are the trustees.

Vesting in person having joint interest

(3) Where the person whose right is dealt with by the order was entitled jointly with another person, the right shall be vested in that last-mentioned person either alone, or jointly with any other person whom the court may appoint.

Appointment of person to transfer

(4) Where a vesting order may be made under this section the court may, if it is more convenient, appoint some proper person to make, or join in making, the transfer.

Transfer, how to be made

(5) The person in whom the right to transfer or call for the transfer of any stock is vested by an order of the court under this Act may transfer the stock to himself, or any other person, according to the order, and all incorporated banks and all companies shall obey every order made under this section.

After notice of order, no transfer to be made contrary thereto

(6) After notice in writing of an order under this section it is not lawful for any incorporated bank or any company to transfer any stock to which the order relates, or to pay any dividends thereon except in accordance with the order.

Court may make declaration

(7) The Supreme Court may make declarations and give directions concerning the manner in which the right to any stock or chose in action, vested under this Act, is to be exercised.

Ships, shares in

(8) The provisions of this Act as to vesting orders apply to shares in ships registered under the Acts relating to merchant shipping as if they were stock. R.S.O. 1960, c. 408, s. 13.

TRUSTEES FOR CHARITIES

Exercise of powers in favour of charities, etc.

14. The Supreme Court may exercise the powers herein conferred for the purpose of vesting any land or personal estate in the trustee of any charity or society over which the court would have jurisdiction upon action duly instituted. R.S.O. 1960, c. 408, s. 14.

Power to order a sale in proper cases

15.—(1) Where land is held by trustees for a charitable purpose and it is made to appear that the land can be no longer advantageously used for such charitable purpose or that for any other reason the land ought to be sold, a judge of the Supreme Court may make an order authorizing the sale thereof and may give such directions in relation thereto and for securing the due investment and application of the money arising from the sale as may be considered proper.

Notice to Public Trustee

(2) No such order shall be made unless notice of the application has been given to the Public Trustee. R.S.O. 1960, c. 408, s. 15.

WHO MAY APPLY

Who may apply for appointment of new trustee, or vesting order, etc.

16.—(1) An order under this Act for the appointment of a new trustee, or concerning any land or personal estate, subject to a trust, may be made upon the application of any person beneficially interested therein, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof.

In case of mortgaged property

(2) An order concerning any land or personal estate, subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the moneys secured by the mortgage. R.S.O. 1960, c. 408, s. 16.

CERTAIN POWERS AND RIGHTS OF TRUSTEES

Purchase and Sale

Power and discretion of trustee for sale R.S.O. 1970, c. 129

17. Subject to *The Devolution of Estates Act* where a trust for sale or a power of sale of land or personal estate is vested in a trustee he may sell or concur with any other person in selling all or any part of the property, either subject to prior charges or not, and either together or in lots, by public auction or by private contract subject to such conditions respecting title or evidence of title or other matter as the trustee thinks fit, with power to vary

any contract for sale, and to buy in at any auction, or to rescind any contract for sale and to resell, without being answerable for any loss. R.S.O. 1960, c. 408, s. 17.

Sales by trustees not impeachable on certain grounds

18.—(1) A sale made by a trustee shall not be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made were unnecessarily depreciatory, unless it also appears that the consideration for the sale was thereby rendered inadequate.

Collusion between purchaser and trustee

(2) Such sale shall not, after the execution of the conveyance, be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made were unnecessarily depreciatory, unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for the sale was made. R.S.O. 1960, c. 408, s. 18.

Dedication or Sale for Highway Purposes

Dedication or sale of land by trustee for municipal highway

19. With the approval of the Ontario Municipal Board or of a judge of the Supreme Court, a person who holds land or a charge or claim against it or has control of the legal title, upon any trust or for a specified or particular purpose, may, to the extent of his estate or interest, dedicate or sell, or join in dedicating or selling, to the corporation of the municipality within which it is situate, any portion of the land required by the corporation for the work of establishing, extending, widening or diverting a street, and the Board or the judge may approve thereof if it appears that it will not have the effect of defeating or seriously affecting the substantial objects or intent of the trust or purpose but the approval is not necessary if such dedication or sale is otherwise within such person's powers. R.S.O. 1960, c. 408, s. 19.

Agents

Power to authorize receipt of money by solicitor

20.—(1) A trustee may appoint a solicitor to be his agent to receive and give a discharge for any money or valuable consideration or property receivable by the trustee under the trust.

By banker

(2) A trustee may appoint a manager or a branch manager of a chartered bank or a solicitor to be his agent to receive and give a discharge for any money payable to the trustee under or by virtue of a policy of assurance or otherwise.

Appointment not a breach of trust

(3) A trustee shall not be charged with a breach of trust by reason only of his having made or concurred in making any such appointment.

Liability of trustee, in certain cases, not affected

(4) Nothing in this section exempts a trustee from any liability that he would have incurred if this Act had not been passed, in case he permits any such money, valuable consideration, or

property to remain in the hands or under the control of the banker or solicitor for a period longer than is reasonably necessary to enable the banker or solicitor to pay or transfer the same to the trustee. R.S.O. 1960, c. 408, s. 20.

Insurance

Power to insure buildings

21.—(1) A trustee may insure against loss or damage by fire, tempest or other casualty, any building or other insurable property to any amount, including the amount of any insurance already on foot, not exceeding three-fourths of the value of such building or property, and pay the premiums for such insurance out of the income thereof or out of the income of any other property subject to the same trusts, without obtaining the consent of any person who may be entitled wholly or partly to such income.

Application

(2) This section does not apply to any building or property that a trustee is bound forthwith to convey absolutely to any beneficiary upon being requested to do so. R.S.O. 1960, c. 408, s. 21.

Renewals of Leases

Power of trustees of renewable leaseholds to renew

22.—(1) A trustee of any leaseholds for lives or years that are renewable from time to time may, if he thinks fit, and shall, if thereto required by any person having any beneficial interest, present or future or contingent, in the leaseholds, use his best endeavours to obtain from time to time a renewed lease of the same land on reasonable terms, and for that purpose may from time to time make or concur in making a surrender of the lease for the time being subsisting, and do all such other acts as are requisite; but where, by the terms of the settlement or will, the person in possession for his life or other limited interest is entitled to enjoy the same without any obligation to renew or to contribute to the expense of renewal, this section does not apply unless the consent in writing of that person is obtained to the renewal on the part of the trustee.

to raise money for the purpose

(2) If money is required to pay for the renewal the trustee effecting the renewal may pay the same out of any money then in his hands in trust for the persons beneficially interested in the land to be comprised in the renewed lease, and if he has not in his hands sufficient money for the purpose he may raise the money required by mortgage of the land to be comprised in the renewed lease, or of any other land for the time being subject to the uses or trusts to which that land is subject, and no person advancing money upon a mortgage purporting to be made under this power is bound to see that the money is wanted, or that no more is raised than is wanted for the purpose or to see to the due application of the money. R.S.O. 1960, c. 408, s. 22.

Passing of Accounts

When trustee may file accounts

23.—(1) A trustee desiring to pass the accounts of his dealings with the trust estate may file his accounts in the office of the surrogate court of a county or district in which he or a co-trustee is resident or in which any part of the trust estate is situate, and the proceedings and practice upon the passing of such accounts shall be the same and have the like effect as the passing of executors' or administrators' accounts in the surrogate court; but in the case of trustees under a will the accounts shall be filed and passed in the office of the surrogate court by which probate of the will was granted.

Fixing compensation of trustee

(2) Where the compensation payable to a trustee has not been fixed by the instrument creating the trust or otherwise, the judge of the surrogate court upon the passing of the accounts of the trustee has power to fix the amount of compensation payable to the trustee and the trustee is thereupon entitled to retain out of any moneys in his hands the amount so determined. R.S.O. 1960, c. 408, s. 23.

Receipts

Receipts of trustees to be effectual discharges

24. The payment of any money to and the receipt thereof by any person to whom the same is payable upon any trust, or for any limited purpose, and such payment to and receipt by the survivor or survivors of two or more mortgagees or holders or the executors or administrators of such survivor or their or his assigns, effectually discharges the person paying the same from seeing to the application or being answerable for the misapplication thereof. R.S.O. 1960, c. 408, s. 24.

Surviving Trustee

Powers of two or more trustees

25. Where a power or trust is given to or vested in two or more trustees jointly it may be exercised or performed by the survivor or survivors of them for the time being. R.S.O. 1960, c. 408, s. 25.

INVESTMENTS

Authorized investments

26. A trustee may invest any trust money in his hands in the classes of securities mentioned in this section, but only if the investment is in other respects reasonable and proper,

government and municipal securities

(*a*) bonds, debentures or other evidences of indebtedness,

(i) of or guaranteed by the Government of Canada,

(ii) of or guaranteed by the government of any province of Canada,

(iii) of or guaranteed by the Government of the United Kingdom,

(iv) of any municipal corporation in Canada, including debentures issued for public, separate, secondary or vocational school purposes, or guaranteed by any municipal corporation in Ontario, or secured by or payable out of rates or taxes levied under the law of any province of Canada on property in such province and collectible by or through the municipality in which such property is situated;

mortgages on real estate

(*b*) first mortgages, charges or hypothecs upon real estate in Canada;

Dominion subsidy bonds

(*c*) bonds, debentures or other evidences of indebtedness of a corporation that are secured by the assignment to a trustee of payments that the Government of Canada has agreed to make, if such payments are sufficient to meet the interest as it falls due on the bonds, debentures or other evidences of indebtedness outstanding and to meet the principal amount of the bonds, debentures or other evidences of indebtedness upon maturity;

loan company debentures R.S.O. 1970, c. 254

(*d*) debentures of any loan corporation that is registered under *The Loan and Trust Corporations Act*;

trust company gurauranteed investments

(*e*) guaranteed investment certificates of any trust company that is registered under *The Loan and Trust Corporations Act*;

International Bank for Reconstruction and Development

R.S.C. 1952, c. 19

(*f*) bonds, debentures or other securities issued or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development approved by the *Bretton Woods Agreement Act* (Canada), if the bonds, debentures or other securities are payable in the currency of Canada or the United States of America;

1966-67, c. 87 (Can.)

(*g*) deposit receipts, deposit notes, certificates of deposits, acceptances and other similar instruments issued or endorsed by any chartered bank to which the *Bank Act* (Canada) applies. R.S.O. 1960, c. 408, s. 26; 1965, c. 134, s. 1; 1970, c. 39, s. 1.

Other investments authorized

27.—(1) In addition to the investments authorized by section 26, a trustee holding trust money for investment may invest such moneys in the following classes of investments, but only if the investment is in other respects reasonable and proper and is made in accordance with subsections 2, 3 and 4,

bonds secured by trust deed

(*a*) bonds, debentures, debenture stock or other securities of any corporation incorporated by Canada, or by any province of Canada, or by any former province now forming part of Canada, that are secured by a mortgage

or hypothec to a trust company either singly or jointly with another trustee upon improved real estate of such corporation or other assets of such corporation of the classes mentioned in this section or in section 26;

provincial subsidy bonds

(b) bonds, debentures or other evidences of indebtedness of a corporation that are secured by the assignment to a trustee of payments that are payable, by virtue of an Act of a province of Canada, by or under the authority of the province, if such payments are sufficient to meet the interest as it falls due on the bonds, debentures or other evidences of indebtedness outstanding and to meet the principal amount of the bonds, debentures or other evidences of indebtedness upon maturity;

corporation securities

(c) bonds, debentures or other evidences of indebtedness of a corporation that has paid,

(i) a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or

(ii) a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid;

preferred shares

(d) preferred shares of a corporation that has paid,

(i) a dividend in each of the five years immediately preceding the date of investment at least equal to the specified annual rate upon all of its preferred shares, or

(ii) a dividend in each year of a period of five years ended less than one year before the date of investment upon its common shares of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid;

common shares

(e) fully paid common shares of a corporation that, in each year of a period of seven years ended less than one year before the date of investment, has paid a dividend upon its common shares of at least 4 per cent of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid. R.S.O. 1960, c. 408, s. 27 (1); 1968-69, c. 134, s. 1.

Limitation

(2) No investment shall be made under this section that, at the time of making such investment, would cause the aggregate market value of the investments made under this section to exceed 35 per cent of the market value at that time of the whole trust estate, and, if in any estate or trust the trustee has retained, under the authority of the trust instrument, investments that had been acquired by the testator or settlor and that come within any of the classes authorized by this section, such investments shall be deemed to have been made under this section.

Change in market values

(3) No sale or other liquidation of any investment made under this section shall be required solely because of any change in the ratio between the market value of such investments and the market value of the whole trust estate.

Market values

(4) In determining market values for the purpose of this section, a trustee may rely upon published market quotations as to those investments for which such quotations are available, and upon such valuations of other investments as in his judgment seem fair and reasonable according to available information. R.S.O. 1960, c. 408, s. 27 (2-4).

Power to deposit trust money

28. A trustee may, pending the investment of any trust money, deposit it during such time as is reasonable in the circumstances in any chartered bank of Canada, or in the Province of Ontario Savings Office, or in any trust company or loan corporation that is registered under *The Loan and Trust Corporations Act.* R.S.O. 1960, c. 408, s. 28.

R.S.O. 1970, c. 254

Power to vary or transpose securities

29. A trustee may from time to time vary or transpose any securities in which money in his hands is invested, whether under the authority of this Act or otherwise, into or for any other securities of any nature authorized by this Act. R.S.O. 1960, c. 408, s. 29.

When trustee not chargeable for lending on insufficient security

30.—(1) A trustee lending money upon the security of any property upon which he may lawfully lend is not chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made, if it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be a competent valuator, instructed and employed independently of any owner of the property, whether such valuator carried on business in the locality where the property is situate or elsewhere, and that the amount of the loan does not exceed three-fourths of the value of the property as stated in the report and that it was made under the advice of the valuator expressed in the report. R.S.O. 1960, c. 408, s. 30; 1968-69, c. 130, s. 2 (1).

(2) Notwithstanding subsection 1, a trustee lending money on a mortgage security, if the loan is an insured loan under the *National Housing Act, 1954* (Canada), is not chargeable with breach of trust by reason only that the amount of the loan exceeds three-fourths of the value of the property mortgaged. 1961-62, c. 140, s. 1 (2); 1968-69, c. 130, s. 2 (2). on N.H.A. mortgages 1953-54, c. 23 (Can.)

31. Where a trustee has improperly advanced money on a mortgage security which would, at the time of the investment, have been a proper investment in all respects for a less sum than was actually advanced the security shall be deemed an authorized investment for such less sum, and the trustee is only liable to make good the sum advanced in excess thereof with interest. R.S.O. 1960, c. 408, s. 31. Trustee lending more than authorized amount

32. A trustee is not chargeable with breach of trust by reason only of his continuing to hold an investment that has ceased to be an investment authorized by the instrument of trust or by the general law. R.S.O. 1960, c. 408, s. 32. Liability in case of change of character of investment

PROTECTION AND INDEMNITY

33. A trustee is chargeable only for money and securities actually received by him, notwithstanding his signing any receipt for the sake of conformity, and is answerable and accountable only for his own acts, receipts, neglects or defaults, and not for those of any other trustee, nor for any banker, broker or other person with whom any trust money or securities may be deposited, nor for the insufficiency or deficiency of any securities, nor for any other loss, unless the same happens through his own wilful default, and may reimburse himself or pay or discharge out of the trust property all expenses incurred in or about the execution of his trust or powers. R.S.O. 1960, c. 408, s. 33. Extent of liability of trustees

34.—(1) Where a trustee commits a breach of trust at the instigation or request or with the consent in writing of a beneficiary, the Supreme Court may make such order as to the court seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him. Trustees committing breach of trust at instigation of beneficiary

(2) This section applies notwithstanding that the beneficiary is a married woman entitled for her separate use and restrained from anticipation. R.S.O. 1960, c. 408, s. 34. Application to separate estate of married women

TECHNICAL BREACHES OF TRUST

35. If in any proceeding affecting a trustee or trust property it appears to the court that a trustee, or that any person who may be held to be fiduciarily responsible as a trustee, is or may be Relief of trustees committing technical breach of trust

personally liable for any breach of trust whenever the transaction alleged or found to be a breach of trust occurred, but has acted honestly and reasonably, and ought fairly to be excused for the breach of trust, and for omitting to obtain the directions of the court in the matter in which he committed the breach, the court may relieve the trustee either wholly or partly from personal liability for the same. R.S.O. 1960, c. 408, s. 35.

PAYMENT INTO COURT

Payment into court by trustees of trust funds or securities by order of court

36.—(1) Where any money belonging to a trust is in the hands or under the control of or is vested in a sole trustee or several trustees and it is the desire of the trustee, or of the majority of the trustees, to pay the money into court, the Supreme Court may order the payment into court to be made by the sole trustee, or by the majority of the trustees, without the concurrence of the other or others if the concurrence cannot be obtained.

Payment or delivery to Accountant of court

(2) Where any such money is deposited with a banker or broker or other depository the court may order payment thereof to the Accountant of the Supreme Court, and payment made in pursuance of such order is valid and takes effect as if it had been made on the authority or by the act of all the persons entitled to the money paid.

Payment into court by persons holding trust moneys for trustee

(3) Where the trustee has been absent from Ontario for a year and is not likely to return at an early date, or in the event of the trustee's death, or where the trustee in Ontario cannot give an acquittance of the money, any person with whom trust money has been deposited or to whose hands trust money has come may make an application similar to that authorized by subsection 1.

Money found to be due infant, etc., on final passing of accounts in surrogate court to be paid into court

(4) Where, on the passing of the final accounts of a personal representative, guardian or trustee by the judge of a surrogate court, there is found to be in the hands of such personal representative, guardian or trustee any money belonging to an infant or to a mentally incompetent person or person of unsound mind, or to a person whose address is unknown, it is the duty of such personal representative, guardian or trustee to pay the money into the Supreme Court to the credit of the person who is entitled to it.

Accountant to be furnished with copy of order, etc.

(5) A certified copy of the order or report of the judge shall be left with the Accountant when the money is paid in, and the person paying it in is entitled to deduct $5 for his costs.

Moneys to which infant or mentally incompetent person entitled

(6) Where an infant, mentally incompetent person or person of unsound mind is entitled to any money, the person by whom such money is payable may pay it into the Supreme Court to the credit of such infant, mentally incompetent person or person of unsound mind and this is a sufficient discharge for the money so paid into court.

(7) Where a trustee desires to be relieved from his trust the court may order all securities held for the trust to be transferred to the Public Trustee. Transfer of trust

(8) Money paid into court is subject to the order of the court. Disposition

(9) Where, however, the person to whom money is due, as mentioned in subsections 4 and 6, is a patient in a hospital for mentally ill, mentally defective or epileptic persons and the Public Trustee is committee of his estate, the money due shall be paid over to the Public Trustee. R.S.O. 1960, c. 408, s. 36. Patient in mental hospital

PERSONAL REPRESENTATIVES AND DEVISEES IN TRUST

Removal of Personal Representatives

37.—(1) The Supreme Court may remove a personal representative upon any ground upon which the court may remove any other trustee, and may appoint some other proper person or persons to act in the place of the executor or administrator so removed. Power of court to remove

(2) Every person so appointed shall, unless the court otherwise orders, give such security as he would be required to give if letters of administration were granted to him under *The Surrogate Courts Act*. Security by person appointed R.S.O. 1970, c. 451

(3) The order may be made upon the application of any executor or administrator desiring to be relieved from the duties of the office, or of any executor or administrator complaining of the conduct of a co-executor or co-administrator, or of any person interested in the estate of the deceased. Who may apply

(4) Subject to any Rules of court, the practice in force for the removal of any other trustee shall be applicable to proceedings to be taken in the Supreme Court under this section. Procedure

(5) Where the executor or administrator removed is not a sole executor or administrator the court need not, unless it sees fit, appoint any person to act in the place of the person removed, and if no such appointment is made the rights and estate of the executor or administrator removed passes to the remaining executor or administrator as if the person so removed had died. When new appointment unnecessary

(6) The executor of any person appointed an executor under this section shall not by virtue of such executorship be an executor of the estate of which his testator was appointed executor under this section, whether such person acted alone or was the last survivor of several executors. Chain of representation

(7) A certified copy of the order of removal shall be filed with the Registrar of the Supreme Court, and another copy with the registrar of the surrogate court by which probate or administration was granted, and such officers shall, at or upon the entry of Copy of order to be filed with Registrar

the grant in the registers of their respective offices, make in red ink a short note giving the date and effect of the order, and shall also make a reference thereto in the index of the register at the place where the grant is indexed.

Endorsement

(8) The date of the grant shall be endorsed on the copy of the order filed with the Registrar of the Supreme Court.

Jurisdiction of surrogate court

(9) Where the estate is less than $1,000, the jurisdiction conferred by this section may be exercised by the surrogate court. R.S.O. 1960, c. 408, s. 37.

RIGHTS AND LIABILITIES OF PERSONAL REPRESENTATIVES

Actions by executors and administrators for torts

38.—(1) Except in cases of libel and slander, the executor or administrator of any deceased person may maintain an action for all torts or injuries to the person or to the property of the deceased in the same manner and with the same rights and remedies as the deceased would, if living, have been entitled to do, and the damages when recovered shall form part of the personal estate of the deceased; provided that if death results from such injuries no damages shall be allowed for the death or for the loss of the expectation of life, but this proviso is not in derogation of any rights conferred by *The Fatal Accidents Act*. R.S.O. 1960, c. 408, s. 38 (1).

R.S.O. 1970, c. 164

Actions against executors and administrators for torts

(2) Except in cases of libel and slander, if a deceased person committed or is by law liable for a wrong to another in respect of his person or property, the person wronged may maintain an action against the executor or administrator of the person who committed or is by law liable for the wrong. R.S.O. 1960, c. 408, s. 38 (2); 1964. c. 119, s. 1.

Actions where no executor or administrator

(3) Where a person wronged is unable to maintain an action under subsection 2 because neither letters probate of the will of the deceased person nor letters of administration of the deceased person's estate have been granted within six months after the death, a judge of the Supreme Court may, on the application of the person wronged and on such notice as he considers proper, appoint an administrator *ad litem* of the estate of the deceased person, whereupon,

(*a*) the administrator *ad litem* shall be deemed to be an administrator against whom an action may be brought under subsection 2; and

(*b*) any judgment in favour of or against the administrator *ad litem* in any such action has the same effect as a judgment in favour of or against, as the case may be, the deceased person, but it has no effect whatsoever for or against the administrator *ad litem* in his personal capacity. R.S.O. 1960, c. 408, s. 38 (3).

(4) A judge of the Supreme Court may make an appointment under subsection 3 before the period of six months referred to therein has expired if he is of opinion that a right of action of the person wronged would otherwise be prejudiced. 1960-61, c. 100, s. 1. Exception

(5) An action under this section shall not be brought after the expiration of one year from the death of the deceased. R.S.O. 1960, c. 408, s. 38 (4). Limitation of actions

39. A personal representative has an action of account as the testator or intestate might have had if he had lived. R.S.O. 1960, c. 408, s. 39. Action of account

40. An administrator with the will annexed or an executor to whom probate is granted has all the power conferred by the testator upon the executor named in his will and may in all respects act as effectually as though he alone had been named by the testator as his sole executor. R.S.O. 1960, c. 408, s. 40. Powers of executor to whom probate granted

Execution of Powers

41. Where there is in a will a direction, express or implied, to sell, dispose of, appoint, mortgage, encumber or lease any land, and no person is by the will or otherwise by the testator appointed to execute and carry the same into effect the executor, if any, named in the will may execute and carry into effect every such direction in respect of such land and any estate or interest therein in the same manner and with the same effect as if he had been appointed by the testator for that purpose. R.S.O. 1960, c. 408, s. 41. Power of executor to convey land

42. Where from any cause a court of competent jurisdiction has committed to a person, who has given security to the satisfaction of such court for his dealing with such land and its proceeds, letters of administration with a will annexed which contains an express or implied power to sell, dispose of, appoint, mortgage, encumber or lease any land, whether such power is conferred on an executor named in the will or the testator has not by the will or otherwise appointed a person to execute it, the administrator may exercise the power in respect of such land in the same manner and with the same effect as if he had been appointed by the testator for that purpose. R.S.O. 1960, c. 408, s. 42. Power of administrator with will annexed to convey land

Land Contracts of Deceased

43. Where a person has entered into a contract in writing for the sale and conveyance of land and has died intestate or without providing by will for the conveyance of such land to the person entitled or to become entitled to such conveyance, and where the Conveyance by pesonal representative in pursuance of a contract by deceased

deceased would be bound, were he alive, to execute a conveyance, his personal representative shall make and give to the person entitled to the same a good and sufficient conveyance of such land, of such nature as the deceased, if living, would be liable to give, but without covenants, except as against the acts of the grantor, and the conveyance is as valid and effectual as if the deceased were alive at the time of the making thereof, and had executed the same, but does not have any further validity or effect. R.S.O. 1960, c. 408, s. 43.

Devises in Trust

Power to raise money by sale or mortgage to satisfy charges

44.—(1) Where by any will coming into operation after the 18th day of September, 1865, a testator charges his land, or any specific part thereof, with the payment of his debts or with the payment of any legacy or other specific sum of money, and devises the land so charged to his executors or to a trustee without any express provision for the raising of such debt, legacy or sum of money out of such land, the devisee may raise such debt, legacy or money by a sale of such land or any part thereof, or by a mortgage of the same.

Purchaser's position

(2) Purchasers or mortgagees are not bound to inquire whether the powers conferred by this section, or any of them, have been duly and correctly exercised by the person acting in virtue thereof. R.S.O. 1960, c. 408, s. 44.

Duties and liabilities of an executor and administrator acting under the powers in this Act

45. Every personal representative, as respects the additional powers vested in him by this Act, and any money or assets by him received in consequence of the exercise of such powers, is subject to all the liabilities, and compellable to discharge all the duties which, as respects the acts to be done by him under such powers, would have been imposed upon a person appointed by the testator, or would have been imposed by law upon any person appointed by law, or by any court of competent jurisdiction to execute such power. R.S.O. 1960, c. 408, s. 45.

Survivorship

46.—(1) Where there are several personal representatives and one or more of them dies, the powers conferred upon them shall vest in the survivor or survivors, unless there is some provision to the contrary in the will.

Idem

(2) Until the appointment of new personal representatives, the personal representatives or representative for the time being of a sole personal representative, or, where there were two or more personal representatives, of the last surviving or continuing personal representative, may exercise or perform any power or trust that was given to, or capable of being exercised by the sole or last surviving personal representative. R.S.O. 1960, c. 408, s. 46.

EFFECT OF REVOCATION OF AN ERRONEOUS GRANT

Validity of acts done prior to revocation of erroneous grant

47.—(1) Where a court of competent jurisdiction has admitted a will to probate, or has appointed an administrator, notwithstanding that the grant of probate or the appointment may be subsequently revoked as having been erroneously made, all acts done under the authority of the probate or appointment, including all payments made in good faith to or by the personal representative, are as valid and effectual as if the same had been rightly granted or made; but upon revocation of the probate or appointment, in cases of an erroneous presumption of death, the supposed decedent, and in other cases the new personal representative may, subject to subsections 2 and 3, recover from the person who acted under the revoked grant or appointment any part of the estate remaining in his hands undistributed and, subject to *The Limitations Act*, from any person who erroneously received any part of the estate as a devisee, legatee or one of the next of kin, or as a husband or wife of the decedent or supposed decedent, the part so received or the value thereof.

R.S.O. 1970, c. 246

Expenses

(2) The person acting under the revoked probate or appointment may retain out of any part of the estate remaining in his hands undistributed his proper costs and expenses incurred in the administration.

Fraud

(3) Nothing in this section protects any person acting as personal representative where he has been party or privy to any fraud whereby the grant or appointment has been obtained, or after he has become aware of any fact by reason of which revocation thereof is ordered unless, in the latter case, he acts in pursuance of a contract for valuable consideration and otherwise binding made before he became aware of such fact. R.S.O. 1960, c. 408, s. 47.

ADMINISTRATION OF ESTATES

Power, to pay debts

48.—(1) A personal representative may pay or allow any debt or claim on any evidence that he thinks sufficient.

to compound, etc.

(2) A personal representative, or two or more trustees acting together, or a sole acting trustee, where, by the instrument, if any, creating the trust, a sole trustee is authorized to execute the trusts and powers thereof may, if and as he or they may think fit, accept any composition or any security, real or personal, for any debt or for any property, real or personal, claimed, and may allow any time for payment for any debt, and may compromise, compound, abandon, submit to arbitration or otherwise settle any debt, account, claim or thing whatever relating to the testator's or intestate's estate or to the trust, and for any of these purposes may enter into, give, execute, and do such agreements, instruments of composition or arrangement, releases, and other things

as to him or them seem expedient without being responsible for any loss occasioned by any act or thing done by him or them in good faith. R.S.O. 1960, c. 408, s. 48.

Application of income of estate of deceased person

49.—(1) Unless a contrary intention appears from the will,

(*a*) the personal representative of a deceased person, in paying the debts, funeral and testamentary expenses, estate, legacy, succession and inheritance taxes or duties, legacies, or other similar disbursements, shall not apply or be deemed to have applied any income of the estate in or towards the payment of any part of the capital of any such disbursements or of any part of the interest, if any, due thereon at the date of death of such person;

(*b*) until the payment of the debts, funeral and testamentary expenses, estate, legacy, succession and inheritance taxes or duties, legacies, or other similar disbursements mentioned in clause *a*, the income from the property required for the payment thereof, with the exception of any part of such income applied in the payment of any interest accruing due thereon after the date of death of the deceased, shall be treated and applied as income of the residuary estate,

but, in any case where the assets of the estate are not sufficient to pay the aforesaid disbursements in full, the income shall be applied in making up such deficiency.

Idem

(2) Subsection 1 shall be deemed always to have been part of the law of Ontario.

Part application of other rules validated

(3) Notwithstanding subsections 1 and 2, in any case in which the personal representative has before the coming into force of this section applied any rule of law or of administration different from the provisions of subsection 1, such application is valid and effective. 1960-61, c. 100, s. 2.

In case of deficiency of assets, debts to rank *pari passu*

50.—(1) On the administration of the estate of a deceased person, in the case of a deficiency of assets, debts due to the Crown and to the personal representative of the deceased person, and debts to others, including therein debts by judgment or order, and other debts of record, debts by specialty, simple contract debts, and such claims for damages as are payable in like order of administration as simple contract debts shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing herein prejudices any lien existing during the lifetime of the debtor on any of his property.

(2) Where a personal representative pays more to a creditor or claimant than the amount to which he is entitled under subsection 1, the overpayment does not entitle any other creditor or claimant to recover more than the amount to which he would be entitled if the overpayment had not been made. Overpayment to creditor

(3) Where a personal representative pays more to a creditor or claimant than the amount to which he is entitled under subsection 1, the court may relieve the personal representative either wholly or partly from personal liability if it is satisfied that he has acted honestly and reasonably and for the protection or conservation of the assets of the estate. R.S.O. 1960, c. 408, s. 49. Relief from personal liability

51.—(1) Where a personal representative, liable as such to the rents, or upon the covenants or agreements contained in a lease or agreement for a lease granted or assigned to the testator or intestate, has satisfied all liabilities under the lease or agreement for a lease, which accrued due and were claimed up to the time of the assignment hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease, or agreement for lease, to a purchaser thereof, he may distribute the residuary estate of the deceased to and among the parties entitled thereto, without appropriating any part or any further part thereof, as the case may be, to meet any future liability under the lease or agreement for lease. As to liability of executor or administrator in respect of covenants, etc., in leases

(2) The personal representative so distributing the residuary estate is not personally liable in respect of any subsequent claim under the lease or agreement for lease. No personal liability for subsequent claim

(3) Nothing in this section prejudices the right of the lessor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom they have been distributed. R.S.O. 1960, c. 408, s. 50. Right to follow assets not affected

52.—(1) Where a personal representative, liable as such to the rent or upon the convenants or agreements contained in any conveyance on chief rent or rent-charge, whether any such rent is by limitation of use, grant or reservation, or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate, has satisfied all liabilities under the conveyance, or agreement for a conveyance, which accrued due and were claimed up to the time of the conveyance by him hereinafter mentioned, and has set apart a sufficient fund to As to liability of personal representative in respect of rents, etc., in conveyances on rent-charge, etc.

answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and has conveyed such property, or assigned such agreement for conveyance to a purchaser thereof, he may distribute the residuary estate of the deceased to and among the persons entitled thereto, without appropriating any part or any further part thereof, as the case may be, to meet any further liability under the conveyance or agreement for conveyance.

No personal liability for any subsequent claim

(2) A personal representative so distributing the residuary estate is not personally liable in respect of any subsequent claim under the conveyance or agreement for conveyance.

Right of grantor, etc., to follow assets not affected

(3) Nothing in this section prejudices the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom they have been distributed. R.S.O. 1960, c. 408, s. 51.

Distribution of assets under trust deeds for benefit of creditors, or of the assets of intestate

53.—(1) Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of creditors generally, or of a particular class or classes of creditors, where the creditors are not designated by name therein, or a personal representative has given such or the like notices as, in the opinion of the court in which such trustee, assignee, or personal representative is sought to be charged, would have been directed to be given by the Supreme Court in an action for the execution of the trusts of such deed or assignment, or in an administration suit, for creditors and others to send in to such trustee, assignee, or personal representative, their claims against the person for the benefit of whose creditors such deed or assignment is made, or against the estate of the testator or intestate, as the case may be, at the expiration of the time named in the notices, or the last of the notices, for sending in such claims, he may distribute the proceeds of the trust estate, or the assets of the testator or intestate, as the case may be, or any part thereof among the persons entitled thereto, having regard to the claims of which he has then notice, and is not liable for the proceeds of the trust estate, or assets, or any part thereof so distributed to any person of whose claim he had not notice at the time of the distribution.

Right of creditor to follow assets not affected

(2) Nothing in this section prejudices the right of any creditor or claimant to follow the proceeds of the trust estate, or assets, or any part thereof into the hands of persons who have received the same.

Subs. 1 not to apply to heirs, etc.

(3) Subsection 1 does not apply to heirs, next of kin, devisees or legatees claiming as such. R.S.O. 1960, c. 408, s. 52.

54. Property over which a deceased person had a general power of appointment, which he might have exercised for his own benefit without the assent of any other person, shall be assets for the payment of his debts where the same is appointed by his will, and, under an execution against the personal representatives of such deceased person, such assets may be seized and sold after the deceased person's own property has been exhausted. R.S.O. 1960, c. 408, s. 53.

Exercise of general power by will, effect of

55.—(1) When a person dies having by will appointed an executor, the executor, in respect of any residue not expressly disposed of, shall be deemed to be a trustee for the person, if any, who would be entitled to the estate under *The Devolution of Estates Act* in case of an intestacy, unless it appears by the will that the executor was intended to take the residue beneficially.

Undisposed of residue

R.S.O. 1970, c. 129

(2) Nothing in this section prejudices any right in respect of any residue not expressly disposed of to which, if this Act had not been passed, an executor would have been entitled where there is not any person who would be entitled to the testator's estate under *The Devolution of Estates Act* in case of an intestacy. R.S.O. 1960, c. 408, s. 54.

Where there is no person entitled to the residue

56. Executors of executors have the same actions for the debts and property of the first testator as he would have had if in life, and are answerable for such of the debts and property of the first testator as they recover as the first executors would be if they had recovered the same. R.S.O. 1960, c. 408, s. 55.

Rights and liabilities of executors of executors

57. The personal representative of any person who, as executor or as executor of his own wrong, or as administrator, wastes or converts to his own use any part of the estate of any deceased person is liable and chargeable in the same manner as his testator or intestate would have been if he had been living. R.S.O. 1960, c. 408, s. 56.

Liability of personal representative of one who commits waste

58.—(1) On the administration of the estate of a deceased person, in case of a deficiency of assets, every creditor holding security on the estate of the deceased debtor or on the estate of a third person for whom the estate of the deceased debtor is only indirectly or secondarily liable, shall place a value on such security and the creditor shall rank upon the distribution of assets only upon the unsecured portion of his claim after deducting the value of the security, unless the personal representative elects to take over the security as hereinafter provided.

Deficiency of assets

(2) Where the personal representative of a deceased person is of the opinion that there may be a deficiency of assets, he may require any creditor to prove his claim and to state whether he holds any security for his claim or any part thereof, and to give

Where personal representative requires creditor to prove claim

full particulars of the same and if such security is on the estate of the deceased debtor or on the estate of a third person for whom the estate of the deceased debtor is only indirectly or secondarily liable, to place a specified value on such security and the personal representative may either consent to the creditor ranking for the amount of his claim after deducting such valuation or may require from the creditor an assignment of the security at an advance of 10 per cent upon the specified value to be paid out of the estate as soon as the personal representative has realized upon such security or is in a position to make payment out of the assets of the estate and in either case the difference between the value at which the security is retained or taken, as the case may be, and the amount of the claim of the creditor, shall be the amount for which he ranks upon the estate of the deceased debtor.

Inspectors, directing of; remuneration of

(3) Where inspectors have been appointed as hereinafter provided or where the estate is being administered under the direction of or by a court, the personal representative in making his election shall act under the direction of the inspectors or of the court, as the case may be, and the remuneration of the inspectors shall be determined by the surrogate court judge on the passing of accounts.

Where claim based on negotiable instruments

(4) If the claim of the creditor is based upon a negotiable instrument upon which the estate of the deceased debtor is only indirectly or secondarily liable and which is not mature or exigible, the creditor shall be considered to hold security within the meaning of this section and shall put a value on the liability of the person primarily liable thereon as his security for the payment thereof, but after the maturity of such liability and its non-payment he is entitled to amend and revalue his claim. R.S.O. 1960, c. 408, s. 57.

When creditor holding security fails to value same

59.—(1) Where a creditor fails to value any security held by him which under this Act he is called upon to value, the personal representative may apply in a summary way to the judge of the surrogate court from which probate or letters of administration were issued for an order that unless a specified value is placed on such security and notified in writing to the personal representative, within a time to be limited by the order, such claimant, in respect of the claim or the part thereof for which security is held, is wholly barred of any right to share in the proceeds of the estate unless the judge upon the application of the creditor extends the time for the valuation of the security.

Administration under direction of a court

(2) Where an estate is being administered by or under the direction of a court, such court shall exercise the jurisdiction conferred by this section upon the judge of the surrogate court. R.S.O. 1960, c. 408, s. 58.

60.—(1) Where in the administration of the estate of a deceased person the personal representative fears that there may be a deficiency of assets or that all the creditors will not be paid in full, the personal representative may call a meeting of creditors and lay before them the situation of the estate and at such meeting inspectors may be appointed by the creditors to assist the personal representative in the administration of the estate and to advise him with respect thereto. Calling meeting of creditors where there is a deficiency of assets

(2) In any such case the personal representative shall call a meeting of creditors for the purpose aforesaid at the request in writing of creditors holding 10 per cent of the amount of claims filed against the estate. Creditors' request for meeting

(3) In cases where no meeting of creditors has been held the personal representative may appoint a creditor or creditors as inspector or inspectors to assist him in the realizing and management of the estate but in such case the appointment shall be approved by the surrogate judge before the inspectors accept office. R.S.O. 1960, c. 408, s. 59. Appointment of creditor as an inspector

APPLICATIONS TO COURT FOR ADVICE

61.—(1) A trustee, guardian or personal representative may, without the institution of an action, apply to the Supreme Court for the opinion, advice or direction of the court on any question respecting the management or administration of the trust property or the assets of his ward or his testator or intestate. Trustee, etc., may apply for advice in management of trust property

(2) The trustee, guardian or personal representative acting upon the opinion, advice or direction given shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee, guardian or personal representative, in the subject-matter of the application, unless he has been guilty of some fraud, wilful concealment or misrepresentation in obtaining such opinion, advice or direction. R.S.O. 1960, c. 408, s. 60. Indemnity of trustee, etc., acting as advised

ALLOWANCE TO TRUSTEES AND PERSONAL REPRESENTATIVES

62.—(1) A trustee, guardian or personal representative is entitled to such fair and reasonable allowance for his care, pains and trouble, and his time expended in and about the estate, as may be allowed by a judge of the Supreme Court or by any master or referee to whom the matter may be referred. Allowance to trustees, etc.

(2) The amount of such compensation may be settled although the estate is not before the court in an action. Though estate not before the court

(3) The judge of a surrogate court, in passing the accounts of a trustee or of a personal representative or guardian, may from time to time allow to him a fair and reasonable allowance for his care, pains and trouble, and his time expended in or about the estate. Allowance to personal representative for services

Allowance to barrister or solicitor trustee for professional services

(4) Where a barrister or solicitor is a trustee, guardian or personal representative, and has rendered necessary professional services to the estate, regard may be had in making the allowance to such circumstance, and the allowance shall be increased by such amount as may be deemed fair and reasonable in respect of such services.

Where allowance fixed by the instrument

(5) Nothing in this section applies where the allowance is fixed by the instrument creating the trust. R.S.O. 1960, c. 408, s. 61.

MISCELLANEOUS

Trustees buying or selling R.S.O. 1970, c. 478

63. A trustee who is either a vendor or a purchaser may sell or buy without excluding the application of section 1 of *The Vendors and Purchasers Act*. R.S.O. 1960, c. 408, s. 62.

Indemnity

64. This Act or an order purporting to be made under it is a complete indemnity to all persons for any acts done under the Act or order, as the case may be. R.S.O. 1960, c. 408, s. 63.

Costs may be ordered to be paid out of estate

65. The Supreme Court may order the costs of and incidental to any application, order, direction, conveyance, assignment or transfer under this Act, or any part thereof, to be paid or raised out of the property in respect of which the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as the court considers proper. R.S.O. 1960, c. 408, s. 64.

Application of R.S.O. 1970, c. 343

66. Where in the administration of any trust, estate or fund any question relating to the disposition, transmission or devolution of any property arises, including the right of any person to terminate a trust or an accumulation directed under a trust or other disposition, and it becomes relevant to inquire whether any person is or at a relevant date was or will be capable of procreating or giving birth to a child, section 7 of *The Perpetuities Act* applies to any such question as it applies to questions concerning the rule against perpetuities. 1966, c. 157, s. 1.

Application of Act

67. Subject to section 68, unless otherwise expressed therein, this Act applies to all trusts whenever created and to all trustees whenever appointed. R.S.O. 1960, c. 408, s. 65.

Additional powers

68. The powers, rights and immunities conferred by this Act are in addition to those conferred by the instrument creating the trust, and have effect subject to the terms thereof. R.S.O. 1960, c. 408, s. 66.

Express terms of trust instrument to prevail

69. Nothing in this Act authorizes a trustee to do anything that he is in express terms forbidden to do, or to omit to do anything that he is in express terms directed to do by the instrument creating the trust. R.S.O. 1960, c. 408, s. 67.

CHAPTER 471

The Unclaimed Articles Act

Application of Act

1. This Act applies in the case of,

(*a*) any article of clothing or household goods,

(i) that is deposited with a person for cleaning, pressing, dyeing, glazing, washing or repairing, and

(ii) that, through no fault of the person with whom it is deposited, remains in his possession for a period of not less than six months,

in respect of which the agreed or reasonable charges for the services mentioned in subclause i are unpaid;

(*b*) any article of clothing or household goods,

(i) that is deposited with a person for storage, whether or not it is also deposited for cleaning, pressing, dyeing, glazing, washing or repairing, and

(ii) that, through no fault of the person with whom it is deposited, remains in his possession for a period of not less than two years,

in respect of which the agreed or reasonable charges for storage are unpaid for any period of not less than twelve months; and

(*c*) any article,

(i) that is deposited with a jeweller or watchmaker for repair or other treatment, and

(ii) that, through no fault of the person with whom it is deposited, remains in his possession for a period of not less than one year,

in respect of which the agreed or reasonable charges for the services rendered are unpaid. R.S.O. 1960, c. 409, s. 1.

Notice of intended disposal

2.—(1) Upon the expiration of the period mentioned in subclause ii of clause *a* or subclause ii of clause *b* or subclause ii of clause *c* of section 1, as the case may be, the person with whom an article is deposited may cause a notice to be served by registered mail upon the owner of the article or the person who deposited the article addressed to him at his last known address stating,

(*a*) the amount of the agreed or reasonable charges in respect of the article; and

(*b*) that, if such charges are not paid within thirty days of the date of the service of the notice, the article will be disposed of.

Notice may cover more than one article

(2) Any notice under this section may be in respect of more than one article belonging to or deposited by the same person. R.S.O. 1960, c. 409, s. 2.

Where notice cannot be given

3. Where the whereabouts of the owner of and the person depositing an article cannot be ascertained and after all reasonable inquiries it is found that section 2 cannot be complied with, the person with whom an article is deposited may, without effecting service of notice as required by section 2, dispose thereof in the manner prescribed by section 4. R.S.O. 1960, c. 409, s. 3.

Disposal of articles

4.—(1) Upon the expiration of the thirty-day period mentioned in subsection 1 of section 2, the person with whom the article is deposited may dispose of it,

(*a*) by giving it to a charitable organization or by giving it to any organization in order that it may be used for charitable purposes; or

(*b*) in the case of an article,

(i) that has been declared by the owner or person depositing it to have a value of not more than $100, or

(ii) in the absence of such a declaration, having a reasonable market value of not more than $100,

by selling it.

Record of articles disposed of

(2) Every person who disposes of articles under this section shall maintain a record of the articles disposed of and the persons or organizations to whom they are disposed.

Application of proceeds

(3) Where an article is sold under subsection 1, the person selling it shall apply the proceeds of the sale in payment of his charges and shall upon application pay over the surplus to the person entitled thereto. R.S.O. 1960, c. 409, s. 4.

Proof of facts

5. Where an article has been disposed of under this Act, *prima facie* evidence of compliance with this Act or of the existence of any fact or the doing of any act may be given in any court by the affidavit of a person having actual knowledge thereof. R.S.O. 1960, c. 409, s. 5.

Relinquish claims for charges

6. Where an article has been disposed of under this Act, the person who disposed of it shall thereby relinquish all claims against the owner or person depositing it for unpaid charges for services upon or storage of the article. R.S.O. 1960, c. 409, s. 6.

7. This Act does not affect the right of any person to proceed in the manner prescribed by *The Warehousemen's Lien Act* or by *The Mechanics' Lien Act*. R.S.O. 1960, c. 409, s. 7. Exceptions R.S.O. 1970, cc. 488, 267

CHAPTER 472

The Unconscionable Transactions Relief Act

1. In this Act, Interpretation

(*a*) "cost of the loan" means the whole cost to the debtor of money lent and includes interest, discount, subscription, premium, dues, bonus, commission, brokerage fees and charges, but not actual lawful and necessary disbursements made to a registrar of deeds, a master of titles, a clerk of a county or district court, a sheriff or a treasurer of a municipality;

(*b*) "court" means a court having jurisdiction in an action for the recovery of a debt or money demand to the amount claimed by a creditor in respect of money lent;

(*c*) "creditor" includes the person advancing money lent and the assignee of any claim arising or security given in respect of money lent;

(*d*) "debtor" means a person to whom or on whose account money lent is advanced and includes every surety and endorser or other person liable for the repayment of money lent or upon any agreement or collateral or other security given in respect thereof;

(*e*) "money lent" includes money advanced on account of any person in any transaction that, whatever its form may be, is substantially one of money-lending or securing the repayment of money so advanced and includes and has always included a mortgage within the meaning of *The Mortgages Act*. R.S.O. 1960, c. 410, s. 1, *amended*. R.S.O. 1970, c. 279

2. Where, in respect of money lent, the court finds that, having regard to the risk and to all the circumstances, the cost of the loan is excessive and that the transaction is harsh and unconscionable, the court may, The court may,

(*a*) reopen the transaction and take an account between the creditor and the debtor; reopen transaction and take account

(*b*) notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, reopen any account already taken and relieve the debtor from pay- reopen former settlements

ment of any sum in excess of the sum adjudged by the court to be fairly due in respect of the principal and the cost of the loan;

order repayment of excess

(*c*) order the creditor to repay any such excess if the same has been paid or allowed on account by the debtor;

set aside or revise contract

(*d*) set aside either wholly or in part or revise or alter any security given or agreement made in respect of the money lent, and, if the creditor has parted with the security, order him to indemnify the debtor. R.S.O. 1960, c.410, s. 2.

Exercise of powers of court,

3. The powers conferred by section 2 may be exercised,

in action by creditor

(*a*) in an action or proceeding by a creditor for the recovery of money lent;

in action by debtor

(*b*) in an action or proceeding by the debtor notwithstanding any provision or agreement to the contrary, and notwithstanding that the time for repayment of the loan or any instalment thereof has not arrived;

in other proceedings

(*c*) in an action or proceeding in which the amount due or to become due in respect of money lent is in question. R.S.O. 1960, c. 410, s. 3.

Relief by way of originating notice in county court

4.—(1) In addition to any right that a debtor may have under this or any other Act or otherwise in respect of money lent, he may apply for relief under this Act to a judge of the county or district court of the county or district in which he resides, and the judge on the application may exercise any of the powers of the court under section 2.

Removal of proceedings into Supreme Court

(2) Where an application is made under subsection 1, the judge may, if he sees fit, at any time before disposing of the application, by order remove the proceedings into the Supreme Court.

Idem

(3) When an order is made under subsection 2, the clerk of the county or district court shall forthwith transmit the papers in the case to the proper office of the Supreme Court in the county or district in which the application was made.

Idem

(4) When the papers have been received in the proper office of the Supreme Court, the application is *ipso facto* removed into the Supreme Court and shall be heard and determined by a judge of the Supreme Court in chambers, and the judge on the application may exercise any of the powers of the court under section 2 or he may direct an issue.

Appeal

(5) An appeal lies to the Court of Appeal from any order made under subsection 1 or 4. R.S.O. 1960, c. 410, s. 4.

5. Nothing in this Act affects the rights of a *bona fide* assignee or holder for value without notice, or derogates from the existing powers or jurisdiction of any court. R.S.O. 1960, c. 410, s. 5.

Saving *bona fide* holder for value, and existing jurisdiction

CHAPTER 473

The University Expropriation Powers Act

Universities to which Act applies

1.—(1) This Act applies to,

(*a*) University of Toronto;

(*b*) Queen's University;

(*c*) University of Western Ontario;

(*d*) McMaster University;

(*e*) Carleton University;

(*f*) The University of Waterloo;

(*g*) York University;

(*h*) Laurentian University of Sudbury;

(*i*) Lakehead University;

(*j*) Trent University;

(*k*) University of Windsor;

(*l*) Brock University;

(*m*) University of Guelph;

(*n*) University of Ottawa;

(*o*) Waterloo Lutheran University; and

(*p*) such other universities as the Lieutenant Governor in Council designates. 1965, c. 135, s. 1 (1), *amended*.

Idem

(2) The Lieutenant Governor in Council may designate universities, other than those referred to in subsection 1, to which this Act shall apply. 1965, c. 135, s. 1 (2).

Expropriation

2.—(1) Notwithstanding any special Act, a university to which this Act applies may, without the consent of the owner or of any person interested therein, other than a municipality or a district, regional or metropolitan municipality, enter upon, take, use and expropriate all such land, as defined in *The Expropriations Act*, as it considers necessary for the purposes of the university or of any university or college federated or affiliated with the university.

R.S.O. 1970, c. 154

Application

(2) *The Expropriations Act* applies to the expropriation of land under this Act.

Expropriation under this Act only

(3) No university to which this Act applies shall expropriate land except under this Act. 1965, c. 135, s. 2, *amended*.

CHAPTER 474

The Upholstered and Stuffed Articles Act

1.—(1) In this Act, Interpretation

(a) "Department" means the Department of Financial and Commercial Affairs;

(b) "Director" means the Director of the Consumer Protection Division of the Department of Financial and Commercial Affairs;

(c) "manufacturer" means a person who inserts and covers stuffing in any article or part thereof in the manufacture of an upholstered or stuffed article or any part thereof;

(d) "Minister" means the Minister of Financial and Commercial Affairs;

(e) "person" means an individual, an association of individuals, a partnership or a corporation and includes an agent of any of them;

(f) "prescribed" means prescribed by the regulations;

(g) "registered" means registered under this Act;

(h) "Registrar" means the Registrar of Upholstered and Stuffed Articles;

(i) "regulations" means the regulations made under this Act;

(j) "renovator" means a person who renovates, repairs or alters an upholstered or stuffed article;

(k) "second-hand article" means an upholstered or stuffed article that has been purchased from a retailer but does not include an upholstered or stuffed article returned to the retailer without use and with the original label attached;

(l) "second-hand material" means material that has been used other than in a manufacturing process;

(m) "stuffing" means any material used for padding, filling or cushioning, that is meant to be enclosed by a covering;

(n) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Department of Financial and Commercial Affairs Act*; R.S.O. 1970, c. 113

(*o*) "upholstered or stuffed article" means an article any part of which contains stuffing. 1968, c. 140, s. 1 (1); 1968-69, c. 135, s. 1.

Idem

(2) For the purposes of this Act and the regulations, an upholstered or stuffed article, other than one received for renovation and labelled under subsection 3 of section 25 or section 30, shall be deemed to be offered for sale while it is in the possession of or on the premises of a person carrying on business as a manufacturer, wholesaler, wholesaler-distributor or retailer. 1968, c. 140, s. 1 (2).

Application

2. Sections 4, 25, 26 and 28 do not apply in respect of the manufacture, labelling and sale,

(*a*) of shoulder pads and trimmings in articles of clothing;

(*b*) of upholstery or articles manufactured as part of a vehicle or an aeroplane; or

(*c*) of life-saving equipment that bears a stamp or label of approval of the Department of Transport of the Government of Canada. 1968, c. 140, s. 2.

Registrar

3.—(1) There shall be a Registrar of Upholstered and Stuffed Articles who shall be appointed by the Lieutenant Governor in Council.

Duties of Registrar

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. 1968-69, c. 135, s. 2.

Registration

4. No person shall carry on business as a manufacturer or as a renovator unless he is registered under this Act. 1968, c. 140, s. 3 (1).

Granting of registration

5.—(1) Subject to subsection 2, the Registrar shall grant registration to any person who applies therefor in the prescribed form and pays the prescribed fee. 1968, c. 140, s. 4 (1).

Refusal of registration

(2) The Registrar may refuse to grant registration where,

(*a*) the applicant;

(*b*) a member of the applicant, where the applicant is an association or partnership; or

(*c*) an officer or director of the applicant, where the applicant is a corporation,

was a registrant, or member, officer or director of a registrant, whose registration has been cancelled, unless the Registrar is satisfied that material circumstances have changed. 1968-69, c. 135, s. 3.

Notice of changes

6. Every registrant shall within five days after the event notify the Registrar in writing of,

(*a*) any change in his address for service; and

(*b*) any change in the officers in the case of a corporation or of the members in the case of an association of individuals or a partnership. 1968, c. 140, s. 6 (2).

Investigation of complaints

7.—(1) Where the Registrar receives a complaint alleging the non-compliance of a registrant with this Act or the regulations and so requests in writing, the registrant shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires. 1968, c. 140, s. 7 (1).

Request to indicate nature of inquiry

(2) The request under subsection 1 shall indicate the general nature of the inquiry involved. 1968-69, c. 135, s. 6 (1).

Idem

(3) For the purposes of subsection 1, the Registrar or any person designated in writing by him may at any reasonable time make an inspection in relation to the complaint. 1968, c. 140, s. 7 (2); 1968-69, c. 135, s. 6 (2).

Inspection

8. Where the Registrar has reasonable and probable grounds to believe that any person is acting as a manufacturer or renovator while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 4. 1968-69, c. 135, s. 7, *part*.

Powers on inspection

9.—(1) Upon an inspection under section 7 or 8, the person inspecting,

(*a*) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person being inspected; and

(*b*) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

Admissibility of copies

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any

action, proceeding or prosecution as *prima facie* proof of the original. 1968-69, c. 135, s. 7, *part*.

Suspension and revocation

10.—(1) The Tribunal may, upon the application of the Registrar, suspend or revoke a registration where the registrant has contravened this Act or the regulations and has refused to comply with this Act or the regulations after being requested to do so by the Registrar in writing.

Voluntary cancellation

(2) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration. 1968-69, c. 135, s. 8.

Hearing by Tribunal

11.—(1) Where the Registrar refuses to issue a registration or applies to the Tribunal to suspend or revoke a registration, he shall serve notice upon the applicant or registrant, together with written reasons for his refusal or for the proposed suspension or revocation, and the applicant or registrant may, by written notice served upon the Registrar and the Tribunal within fifteen days after the service of the notice of refusal or proposed suspension or revocation, require a hearing by the Tribunal.

Notice of hearing

(2) The Tribunal shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed.

Idem

(3) The notice of hearing shall contain,

(*a*) a statement of the time and place of the hearing;

(*b*) a statement of the statutory power under which the hearing is being held;

(*c*) a reference to the rules of procedure applicable to the hearing;

(*d*) a concise statement of the issues; and

(*e*) a statement that, if a party who has been duly notified does not attend at the hearing, the Tribunal may proceed in his absence and he is not entitled to notice of any further proceedings. 1968, c. 135, s. 9, *part*.

Parties

12.—(1) The Registrar, the applicant or registrant and any other person specified by the Tribunal are parties to the hearing.

Failure to attend

(2) If a person who has been duly notified of a hearing does not attend, the Tribunal may proceed in his absence. 1968-69, c. 135, s. 9. *part*.

Adjournment

13.—(1) A hearing may be adjourned from time to time by the Tribunal on reasonable grounds,

(*a*) on its own motion; or

(*b*) on the motion of any party to the hearing.

Subpoenas

(2) The Tribunal may, in the prescribed form, command the attendance before it of any person as a witness.

Oaths

(3) The Tribunal may require any person,

(*a*) to give evidence on oath at a hearing; and

(*b*) to produce such documents and things as the Tribunal requires.

Objection re self-incrimination R.S.O. 1970, c. 151 R.S.C. 1952, c. 307

(4) An applicant or registrant giving evidence under oath before the Tribunal shall be advised of his right to object to answer any question under section 9 of *The Evidence Act* and section 5 of the *Canada Evidence Act*.

Idem

(5) The Tribunal may admit evidence not given under oath.

Offences

(6) Any person who, without lawful excuse,

(*a*) on being duly summoned as a witness before the Tribunal, makes default in attending;

(*b*) being in attendance as a witness before the Tribunal refuses to take an oath legally required by the Tribunal to be taken, or to produce any document or thing in his power or control legally required by the Tribunal to be produced by him, or to answer any question to which the Tribunal may legally require an answer; or

(*c*) does any other thing that would, if the Tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

is guilty of an offence punishable under subsection 7.

Enforcement

(7) The Tribunal may certify an offence under subsection 6 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1968-69, c. 135, s. 9, *part*.

Right of party to counsel

14. Any party may be represented before the Tribunal by counsel or agent. 1968-69, c. 135, s. 9, *part*.

Right of witness to counsel

15.—(1) Any witness may be represented before the Tribunal by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law.

Exclusion of counsel

(2) Where a hearing is *in camera*, a counsel or agent for a witness shall be excluded except when that witness is giving evidence. 1968-69, c. 135, s. 9, *part*.

Right of parties at hearing

16. At a hearing before the Tribunal, any party may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions. 1968-69, c. 135, s. 9, *part.*

Hearings to be open to public; exceptions

17.—(1) All hearings shall be open to the public except where the Tribunal finds that,

(*a*) public security may be involved; or

(*b*) intimate financial or personal circumstances of any person may be disclosed,

in which case the Tribunal shall hold the hearing as to any such matters *in camera*.

Idem

(2) Notwithstanding the exceptions mentioned in clauses *a* and *b* of subsection 1, the Tribunal may, if in its opinion the public interest so requires, proceed without regard to such exceptions. 1968-69, c. 135, s. 9, *part.*

Release of exhibits

18. Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Tribunal within a reasonable time after the matter in issue has been finally determined. 1968-69, c. 135, s. 9, *part.*

Specialized knowledge

19.—(1) The Tribunal may consider in reaching its decision any facts and information that are within its knowledge and that have not been introduced in evidence.

Notice

(2) The Tribunal shall notify all parties to a proceeding of any facts or information referred to in subsection 1 and shall, before reaching its decision, give the parties an opportunity to contest before it any such facts or information.

Contents and service of notice

(3) The Tribunal shall cause a notice containing a statement of such facts or information to be served upon all the parties. 1968-69, c. 135, s. 9, *part.*

Record

20. All oral evidence received by the Tribunal shall be taken down in writing and together with,

(*a*) the notice of hearing;

(*b*) any rulings or orders made in the course of the proceedings of the Tribunal;

(*c*) any written submissions received by the Tribunal; and

(*d*) the decision and the reasons therefor,

form the record. 1968-69, c. 135, s. 9, *part.*

Decision of Tribunal

21.—(1) The Tribunal may, after the hearing,

(*a*) where the hearing is an appeal from a decision of the Registrar, by order confirm or alter the decision of the Registrar or direct the Registrar to do any act the Registrar is authorized to do under this Act and as the Tribunal considers proper and for this purpose the Tribunal may substitute its opinion for that of the Registrar; or

(*b*) where the hearing is an application for suspension or revocation of a registration, dismiss the application or order that the registration be suspended or revoked,

and the Tribunal may attach such terms and conditions to its order or to the registration as it considers appropriate.

Decision to be in writing

(2) The final decision of the Tribunal, including the reasons therefor, shall be in writing.

Contents of reasons for decision

(3) The reasons for the final decision shall contain,

(*a*) the findings of fact on the evidence and any information or knowledge used in reaching the decision;

(*b*) any agreed findings of facts; and

(*c*) the conclusions of law based on the findings mentioned in clauses *a* and *b*.

Notice of decision

(4) The Tribunal shall cause to be served on the parties a copy of its final decision, including the reasons therefor, and a notice stating the rights of appeal. 1968-69, c. 135, s. 9, *part*.

Enforcement of decisions

22. A certified copy of the final decision of the Tribunal, exclusive of the reasons therefor, may be filed in the office of the Registrar of the Supreme Court whereupon it shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1968-69, c. 135, s. 9, *part*.

Appeal to Court of Appeal

23.—(1) Any party to the hearing before the Tribunal may appeal from the decision of the Tribunal to the Court of Appeal and the practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court.

Counsel

(2) The Minister may designate counsel to assist the court upon the hearing of an appeal under this section.

Decision of court

(3) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Tribunal or direct the Registrar or the Tribunal to do any act the Registrar or the Tribunal is authorized to do under this Act and as the court considers proper, and the court may substitute its opinion for that of the Registrar and the Tribunal and may exercise the same powers as it exercises on an appeal

from a judge of the High Court sitting without a jury. 1968-69, c. 135, s. 9, *part*.

Stay

24. An order of the Tribunal refusing to renew or suspending or revoking a registration shall take effect immediately, but the Tribunal may grant a stay until the order becomes final. 1968-69, c. 135, s. 9, *part*.

Labelling: on manufacture and renovation

25.—(1) Every manufacturer and every renovator shall, immediately upon its manufacture or receipt for renovation, affix to a conspicuous part of the main body of the upholstered or stuffed article a label in the prescribed form.

second-hand articles

(2) Every dealer in second-hand articles shall, immediately upon their receipt, affix to a conspicuous part of each second-hand article in his possession, a label in the prescribed form.

receipt for renovation

(3) Every person who receives an upholstered or stuffed article for the purpose of renovation shall, where such work is to be performed by someone other than that person or his employee, immediately upon its receipt, affix to a conspicuous part of the main body of the article a label in the prescribed form. 1968, c. 140, s. 14.

Sale

26.—(1) No person shall sell or offer for sale, whether by auction or otherwise, an upholstered or stuffed article that does not bear a label complying with the regulations and securely affixed to a conspicuous part of the main body of the article.

Exception

(2) Subsection 1 does not apply to the sale or offering for sale by a householder of his own household articles on his own premises. 1968, c. 140, s. 15.

Removal of labels

27. No person shall remove, deface or alter or attempt to remove, deface or alter any label affixed to an article before the article to which it is affixed is sold by retail and delivered or in the case of renovations is returned to the owner. 1968, c. 140, s. 16.

Sale of articles of unregistered manufacturer

28. No person shall sell or offer for sale, whether by auction or otherwise, an upholstered or stuffed article, other than a second-hand article, that has not been manufactured by a manufacturer who is registered under this Act, or manufactured in a province designated by the regulations. 1968, c. 140, s. 17.

Second-hand material

29.—(1) No person shall use second-hand material as stuffing in the manufacture of an upholstered or stuffed article or add second-hand material as stuffing in its renovation.

Unclean material

(2) No person shall use material that contains vermin or is unclean in the manufacture or renovation of any upholstered or stuffed article.

(3) No person shall use feathers or feather products in the manufacture or renovation of an upholstered or stuffed article unless the feathers or feather products have first been processed in the manner prescribed by the regulations. 1968, c. 140, s. 18. Feathers

30.—(1) No person shall sell or offer for sale an upholstered or stuffed article that, Unsanitary stuffing

(a) has been in contact with a person suffering from a communicable disease;

(b) is so soiled or in such condition as is likely to affect adversely the health of any person; or

(c) contains vermin,

unless the article has been sterilized or disinfected in the manner prescribed by the regulations.

(2) Where an upholstered or stuffed article to which subsection 1 applies is offered for sale by a dealer and the Registrar or the local medical officer of health believes on reasonable and probable grounds that the article can not be satisfactorily treated and endangers public health, the Registrar or local medical officer of health may, by order in writing, require that the article be destroyed. 1968, c. 140, s. 19 (1, 2). Destruction

(3) Where a person considers himself aggrieved by an order under subsection 2, he may appeal therefrom to the Tribunal by filing with the Tribunal a notice of appeal within five days after service of the order appealed against, and in relation to the practice and procedure on the appeal, the provisions of sections 12, 13, 14, 15, 16, 17, 18 and 19 apply *mutatis mutandis*. 1968, c. 140, s. 19 (3); 1968-69, c. 135, s. 10 (1). Appeal

(4) Pending an appeal, the appellant shall not dispose of the article forming the subject-matter of the appeal. 1968, c. 140, s. 19 (4). Preservation of article

(5) After giving the appellant an opportunity to be heard, the Tribunal shall confirm, revoke or modify the order appealed against and the appellant shall carry out the order of the Tribunal. 1968, c. 140, s. 19 (5); 1968-69, c. 135, s. 10 (2). Decision of Tribunal

(6) Every order under this section shall be in writing and shall be served upon the appellant together with written reasons for the decision. 1968, c. 140, s. 19 (6). Service of order and reasons

31.—(1) The Registrar or any person designated in writing by him may at all reasonable times enter and inspect, Inspection

(a) the premises where upholstered or stuffed articles are manufactured or renovated;

(b) the premises where materials for stuffing are processed;

(c) the premises where upholstered or stuffed articles are offered for sale,

and such inspection may include the examination of the stuffing in upholstered or stuffed articles by means of reasonably representative sampling.

Off-sale labels

(2) Where, upon an inspection under subsection 1, the person making the inspection finds that any upholstered or stuffed article is not labelled in accordance with this Act or the regulations, he may affix thereto an off-sale label in the prescribed form, and shall remove the off-sale labels when the labelling is corrected.

Idem

(3) Where, upon an inspection under subsection 1, the person making the inspection has reasonable and probable grounds for believing that stuffing does not comply with section 29 or 30, he,

(*a*) may take upholstered or stuffed articles or stuffing for the purposes of testing;

(*b*) may affix off-sale labels to the articles or stuffing concerned; and

(*c*) shall have the specimens taken tested with all reasonable dispatch. 1968, c. 140, s. 20.

Removal of off-sale labels

32.—(1) The Registrar or a person designated in writing by him shall remove an off-sale label,

(*a*) that has been affixed under subsection 2 of section 31, when the labelling is corrected; or

(*b*) that has been affixed under subsection 3 of section 31, when the tests indicate that sections 29 and 30 do not apply or when those sections have been complied with.

Idem

(2) No person, other than the Registrar or any person designated in writing by him, shall remove an off-sale label that has been affixed under section 31. 1968, c. 140, s. 21.

Preservation of off-sale articles

33.—(1) Subject to subsection 2, no person shall sell, offer to sell, exchange, lease or remove from the premises where it is located, any article placed off-sale under section 31, and such article shall be produced by the person having possession of the article on demand of the Registrar or any person designated in writing by him at any time until the off-sale label is removed by a person authorized by section 32.

Exception

(2) The person having possession of an off-sale article may, with the written consent of the Registrar or any person designated in writing by him, return the off-sale article to his supplier. 1968, c. 140, s. 22.

Duty of employers

34. Every employer shall take every precaution, reasonable in the circumstances, to ensure that his employees do not contravene this Act or the regulations or any order made under this Act. 1968, c. 140, s. 24.

Service

35.—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Department.

Idem

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing.

Exception

(3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal. 1968-69, c. 135, s. 12, *part*.

Restraining orders

36.—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Court of Appeal from an order made under subsection 1. 1968-69, c. 135, s. 12, *part*.

Offence, general

37.—(1) Except where otherwise provided, every person who,

(*a*) contravenes this Act or the regulations;

(*b*) fails to comply with any order made under this Act; or

(*c*) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act,

is guilty of an offence and on summary conviction is liable to a fine of not more than $500 or, if such person is a corporation, to a fine of not more than $2,000.

Idem

(2) Where a corporation is guilty of an offence under subsection 1, every director or officer who authorized, permitted or acquiesced in the offence is also guilty of an offence and on summary conviction is liable to a fine of not more than $500. 1968, c. 140, s. 25 (1, 2).

Limitation

(3) No proceeding under clause *a* or *b* of subsection 1 shall be instituted more than two years after the time when the subject-matter of the proceeding arose. 1968, c. 140, s. 25 (3); 1968-69, c. 135, s. 13, (1).

Idem

(4) No proceeding under clause *c* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director. 1968, c. 140, s. 25 (4); 1968-69, c. 135, s. 13 (2).

Offence, obstruction

38. Any person who obstructs, hinders, delays or prevents any person authorized by this Act to enter and inspect any premises or examine any stuffed article is guilty of an offence and on summary conviction is liable to a fine of not more than $250. 1968, c. 140, s. 26.

Certificate as evidence

39. A statement as to,

(*a*) the registration or non-registration of any person;

(*b*) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;

(*c*) the time when the facts upon which proceedings are based first came to the knowledge of the Registrar; or

(*d*) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, document or material,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1968, c. 140, s. 27; 1968-69, c. 135, s. 14.

Regulations

40. The Lieutenant Governor in Council may make regulations,

(*a*) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;

(*b*) requiring the payment of fees for any matter connected with registration and prescribing the amounts thereof;

(*c*) prescribing the form of labels required or authorized by this Act to be affixed to upholstered and stuffed articles, or any class thereof, and adopting labels affixed under the laws of any other province designated by the regulations;

(*d*) prescribing procedures for the taking of samples and the attaching and removal of off-sale labels;

(*e*) designating provinces for the purposes of section 28;

(*f*) prescribing the processing that shall be used for feathers and feather products used as stuffing;

(*g*) prescribing processes for sterilizing and disinfecting for the purposes of section 30;

(*h*) prescribing forms for the purposes of this Act and providing for their use;

(*i*) requiring registrants to make returns and furnish information to the Registrar;

(*j*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;

(*k*) prescribing further procedures respecting the conduct of matters coming before the Tribunal;

(*l*) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof. 1968, c. 140, s. 28; 1968-69, c. 135, s. 15.

CHAPTER 475

The Used Car Dealers Act

1. In this Act, Interpretation

(*a*) "Department" means the Department of Financial and Commercial Affairs;

(*b*) "Director" means the Director of the Consumer Protection Division of the Department;

(*c*) "Minister" means the Minister of Financial and Commercial Affairs;

(*d*) "prescribed" means prescribed by this Act or the regulations;

(*e*) "registered" means registered under this Act;

(*f*) "Registrar" means the Registrar of Used Car Dealers and Salesmen;

(*g*) "regulations" means the regulations made under this Act;

(*h*) "salesman" means a person employed, appointed or authorized by a dealer to buy or sell used cars on the dealer's behalf;

(*i*) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Department of Financial and Commercial Affairs Act*; R.S.O. 1970, c. 113

(*j*) "used car" means a motor vehicle, as defined in *The Highway Traffic Act*, that has been driven for any purpose other than delivery to a dealer and servicing; R.S.O. 1970, c. 202

(*k*) "used car dealer" means a person who carries on the business of buying or selling used cars, whether for his own account or the account of any other person, or who holds himself out as carrying on the business of buying or selling used cars. 1968-69, c. 136, s. 1.

2.—(1) There shall be a Registrar of Used Car Dealers and Salesmen who shall be appointed by the Lieutenant Governor in Council. Registrar

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. 1968-69, c. 136, s. 2. Duties of Registrar

Registration required

3.—(1) No person shall,

(*a*) carry on business as a used car dealer unless he is registered under this Act; or

(*b*) act as a salesman of or on behalf of a used car dealer unless he is registered as a salesman of such dealer and such dealer is registered as a used car dealer under this Act.

Representation

(2) No person shall publish or cause to be published any representation that he is registered under this Act.

Name and place of business

(3) A registered used car dealer shall not carry on business in a name other than the name in which it is registered or invite the public to deal at a place other than that authorized by the registration. 1968-69, c. 136, s. 3.

Dealer to ensure salesmen registered

4. A used car dealer shall not retain the services of a salesman who is not registered under this Act. 1968-69, c. 136, s. 4.

Registration

5.—(1) An applicant is entitled to registration or renewal of registration except where,

(*a*) his financial responsibility or record of past conduct is such that it would not be in the public interest for the registration or renewal to be granted;

(*b*) where the applicant is a corporation, its financial responsibility or the record of past conduct of the corporation or its officers or directors is such that it would not be in the public interest for the registration or renewal to be granted; or

(*c*) the applicant is or proposes to be in contravention of this Act or the regulations.

Conditions of registration

(2) A registration is subject to such terms and conditions as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations. 1968-69, c. 136, s. 5.

Revocation

6.—(1) The Tribunal may, upon the application of the Registrar, suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 5 if he were an applicant, or where the registrant is in breach of a condition of the registration.

Voluntary cancellation

(2) Notwithstanding subsection 1, the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration. 1968-69, c. 136, s. 6.

Hearing by Tribunal

7.—(1) Where the Registrar refuses to issue or renew a registration or applies to the Tribunal to suspend or revoke a

registration, he shall serve notice upon the applicant or registrant, together with written reasons for his refusal or for the proposed suspension or revocation, and the applicant or registrant may, by written notice served upon the Registrar and the Tribunal within fifteen days after the service of the notice of refusal or proposed suspension or revocation, require a hearing by the Tribunal.

Stay of refusal to renew

(2) Where the Registrar refuses to renew a registration, the applicant shall be deemed to continue to be registered until an order is made by the Tribunal or until the time for requiring a hearing by the Tribunal expires, whichever occurs first.

Notice of hearing

(3) The Tribunal shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed.

Idem

(4) The notice of hearing shall contain,

(*a*) a statement of the time and place of the hearing;

(*b*) a statement of the statutory power under which the hearing is being held;

(*c*) a reference to the rules of procedure applicable to the hearing;

(*d*) a concise statement of the issues; and

(*e*) a statement that, if a party who has been duly notified does not attend at the hearing, the Tribunal may proceed in his absence and he is not entitled to notice of any further proceedings. 1968-69, c. 136, s. 7.

Parties

8.—(1) The Registrar, the applicant or registrant and any other person specified by the Tribunal are parties to the hearing.

Failure to attend

(2) If a person who has been duly notified of a hearing does not attend, the Tribunal may proceed in his absence. 1968-69, c. 136, s. 8.

Adjournment

9.—(1) A hearing may be adjourned from time to time by the Tribunal on reasonable grounds,

(*a*) on its own motion; or

(*b*) on the motion of any party to the hearing.

Subpoenas

(2) The Tribunal may, in the prescribed form, command the attendance before it of any person as a witness.

Oaths

(3) The Tribunal may require any person,

(*a*) to give evidence on oath at a hearing; and

(*b*) to produce such documents and things as the Tribunal requires.

Objection re self-incrimination R.S.O. 1970, c. 151 R.S.C. 1952, c. 307

(4) An applicant or registrant giving evidence under oath before the Tribunal shall be advised of his right to object to answer any question under section 9 of *The Evidence Act* and section 5 of the *Canada Evidence Act*.

Idem

(5) The Tribunal may admit evidence not given under oath.

Offences

(6) Any person who, without lawful excuse,

(*a*) on being duly summoned as a witness before the Tribunal, makes default in attending; or

(*b*) being in attendance as a witness before the Tribunal refuses to take an oath legally required by the Tribunal to be taken, or to produce any document or thing in his power or control legally required by the Tribunal to be produced by him, or to answer any question to which the Tribunal may legally require an answer; or

(*c*) does any other thing that would, if the Tribunal had been a court of law having power to commit for contempt, have been contempt of that court,

is guilty of an offence punishable under subsection 7.

Enforcement

(7) The Tribunal may certify an offence under subsection 6 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1968-69, c. 136, s. 9.

Right of party to counsel

10. Any party may be represented before the Tribunal by counsel or agent. 1968-69, c. 136, s. 10.

Right of witness to counsel

11.—(1) Any witness may be represented before the Tribunal by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law.

Exclusion of counsel

(2) Where a hearing is *in camera*, a counsel or agent for a witness shall be excluded except when that witness is giving evidence. 1968-69, c. 136, s. 11.

Right of parties at hearing

12. At a hearing before the Tribunal, any party may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions. 1968-69, c. 136, s. 12.

Hearings to be open to public; exceptions

13.—(1) All hearings shall be open to the public except where the Tribunal finds that,

(*a*) public security may be involved; or

(*b*) intimate financial or personal circumstances of any person may be disclosed,

in which case the Tribunal shall hold the hearing as to any such matters *in camera*.

Idem

(2) Notwithstanding the exceptions mentioned in clauses *a* and *b* of subsection 1, the Tribunal may, if in its opinion the public interest so requires, proceed without regard to such exceptions. 1968-69, c. 136, s. 13.

Release of exhibits

14. Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Tribunal within a reasonable time after the matter in issue has been finally determined. 1968-69, c. 136, s. 14.

Specialized knowledge

15.—(1) The Tribunal may consider in reaching its decision any facts and information that are within its knowledge and that have not been introduced in evidence.

Notice

(2) The Tribunal shall notify all parties to a proceeding of any facts or information referred to in subsection 1 and shall, before reaching its decision, give the parties an opportunity to contest before it any such facts or information.

Contents and service of notice

(3) The Tribunal shall cause a notice containing a statement of such facts or information to be served upon all the parties. 1968-69, c. 136, s. 15.

Record

16. All oral evidence received by the Tribunal shall be taken down in writing and together with,

(*a*) the notice of hearing;

(*b*) any rulings or orders made in the course of the proceedings of the Tribunal;

(*c*) any written submissions received by the Tribunal; and

(*d*) the decision and the reasons therefor,

form the record. 1968-69, c. 136, s. 16.

Decision of Tribunal

17.—(1) The Tribunal may, after the hearing,

(*a*) where the hearing is an appeal from a decision of the Registrar, by order confirm or alter the decision of the Registrar or direct the Registrar to do any act the Registrar is authorized to do under this Act and as the Tribunal considers proper and for this purpose the Tribunal may substitute its opinion for that of the Registrar;

(*b*) where the hearing is an application for suspension or revocation of a registration, dismiss the application or order that the registration be suspended or revoked,

and the Tribunal may attach such terms and conditions to its order or to the registration as it considers appropriate.

Decision to be in writing

(2) The final decision of the Tribunal, including the reasons therefor, shall be in writing.

Contents of reasons for decision

(3) The reasons for the final decision shall contain,

(*a*) the findings of fact on the evidence and any information or knowledge used in reaching the decision;

(*b*) any agreed findings of facts; and

(*c*) the conclusions of law based on the findings mentioned in clauses *a* and *b*.

Notice of decision

(4) The Tribunal shall cause to be served on the parties a copy of its final decision, including the reasons therefor, and a notice stating the rights of appeal. 1968-69, c. 136, s. 17.

Enforcement of decisions

18. A certified copy of the final decision of the Tribunal, exclusive of the reasons therefor, may be filed in the office of the Registrar of the Supreme Court whereupon it shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1968-69, c. 136, s. 18.

Appeal to Court of Appeal

19.—(1) Any party to the hearing before the Tribunal may appeal from the decision of the Tribunal to the Court of Appeal and the practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court.

Counsel

(2) The Minister may designate counsel to assist the court upon the hearing of an appeal under this section.

Decision of court

(3) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the Tribunal or direct the Registrar or the Tribunal to do any act the Registrar or the Tribunal is authorized to do under this Act and as the court considers proper, and the court may substitute its opinion for that of the Registrar and the Tribunal and may exercise the same powers as it exercises on an appeal from a judge of the High Court sitting without a jury. 1968-69, c. 136, s. 19 (1-3).

Stay

20. An order of the Tribunal refusing to renew or suspending or revoking a registration shall take effect immediately but the Tribunal may grant a stay until the order becomes final. 1968-69, c. 136, s. 20.

Further applications

21. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. 1968-69, c. 136, s. 21.

22.—(1) Where the Registrar receives a complaint in respect of a used car dealer and so requests in writing, the used car dealer shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires. Investigation of complaints

(2) The request under subsection 1 shall indicate the nature of the inquiry involved. Idem

(3) For the purposes of subsection 1, the Registrar or any person designated in writing by him may at any reasonable time enter upon the business premises of the used car dealer to make an inspection in relation to the complaint. 1968-69, c. 136, s. 22. Idem

23.—(1) The Registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of the registrant to make an inspection to ensure that the provisions of this Act and the regulations relating to registration and the maintenance of trust accounts are being complied with. Inspection

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as a used car dealer or salesman while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3. 1968-69, c. 136, s. 23. Idem

24.—(1) Upon an inspection under section 22 or 23, the person inspecting, Powers on inspection

(*a*) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person being inspected; and

(*b*) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. 1968-69, c. 136, s. 24. Admissibility of copies

25.—(1) Where, upon a statement made under oath, it appears probable to the Director that any person has, Investigations

(*a*) contravened any of the provisions of this Act or the regulations; or

1953-54, c. 51 (Can.)

(*b*) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for registration under this Act,

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulations or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

Investigation by order of Minister

(2) Notwithstanding subsection 1, the Minister may by order appoint one or more persons to make an investigation into any matter to which this Act applies and the person appointed shall report the result of his investigation to the Minister.

Scope of investigation

(3) For the purpose of any investigation ordered under this section, any person appointed to make the investigation may at any reasonable time enter upon the business premises and may investigate, inquire into and examine the affairs of the person in respect of whom the investigation is being made and into any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or in connection with such person and into any property, assets or things owned, acquired or alienated in whole or in part by such person or by any person acting on behalf of or as agent for such person, and no person shall withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the investigation.

Removal of records

(4) Any person making an investigation under this section may, upon giving a receipt therefor, remove any document or record relating to the person whose affairs are being investigated and that relate to the subject-matter of the investigation, for the purpose of making a copy of such document or record, provided that such copying is carried out with reasonable dispatch and the document or record in question is promptly thereafter returned to the person whose affairs are being investigated.

Admissibility of copies

(5) Any copy made as provided in subsection 4 and purporting to be certified by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original document or record.

Appointment of experts

(6) The Minister or Director may appoint any expert to examine documents, records, properties and matters of any person whose affairs are being investigated under this Act.

Evidence by witness

(7) The investigator may, in the prescribed form, command the attendance before him of any person as a witness and subsections 2 to 6 of section 9 and section 11 apply to the

investigator and witness in the same manner as to the Tribunal and witnesses before it.

(8) No person, without the consent of the Minister, shall disclose, except to his counsel, any information or evidence obtained in the course of an investigation made under this section or the name of any witness examined or sought to be examined in such investigation. 1968-69, c. 136, s. 25. Confidentiality

26. Where, upon the report of an investigation made under subsection 1 of section 25, it appears to the Director that a person may have, Report

(*a*) contravened any of the provisions of this Act or the regulations; or

(*b*) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for registration under this Act, 1953-54, c. 51 (Can.)

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister. 1968-69, c. 136, s. 26.

27.—(1) The Director may, Order to refrain from dealing with assets

(*a*) after an investigation of any person has been ordered under section 25; or

(*b*) where criminal proceedings or proceedings in respect of a contravention of any Act or regulation are about to be or have been instituted against a person that in the opinion of the Director are connected with or arise out of the business in respect of which such person is registered or required to be registered,

in writing or by telegram, direct any person having on deposit or under control or for safe-keeping any assets or trust funds of the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such assets or trust funds from any other person having any of them on deposit, under control or for safe-keeping or to hold such assets or trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes such direction or consents to release any particular asset or trust fund from the direction, but, in the case of a bank or loan or trust company, the direction only applies to the offices, branches or agencies thereof named in the direction. R.S.C. 1952, cc. 14, 296 R.S.O. 1970, cc. 228, 89, 53

(2) Subsection 1 does not apply where the person referred to in clause *a* or *b* of subsection 1 files with the Director, Bond in lieu

(*a*) a personal bond accompanied by collateral security;

R.S.O. 1970, c. 196

(*b*) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or

(*c*) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

in such form, terms and amount as the Director may determine.

Application for direction

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Notice to registrar of deeds, etc.

(4) In any of the circumstances mentioned in clause *a* or *b* of subsection 1, the Director may in writing or by telegram notify any registrar of deeds or master of titles that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice. 1968-69, c. 136, s. 27.

Notice of changes

28.—(1) Every used car dealer shall, within five days after the event, notify the Registrar in writing of,

(*a*) any change in his address for service;

(*b*) any change in the officers in the case of a corporation or of the members in the case of a partnership;

(*c*) any commencement or termination of the employment, appointment or authorization of a salesman;

(*d*) in the case of a corporation, any change in the ownership of its shares.

Idem

(2) Every used car salesman shall, within five days after the event, notify the Registrar in writing of,

(*a*) any change in his address for service; and

(*b*) any commencement or termination of his employment. 1968-69, c. 136, s. 28.

Financial statements

29.—(1) Every used car dealer shall, when required by the Registrar with the approval of the Director, file a financial statement showing the matters specified by the Registrar and signed by the used car dealer and certified by a person licensed under *The Public Accountancy Act*.

R.S.O. 1970, c. 373

Statement confidential

(2) The information contained in a financial statement filed under subsection 1 is confidential and no person shall otherwise

than in the ordinary course of his duties communicate any such information or allow access to or inspection of the financial statement. 1968-69, c. 136, s. 29.

False advertising

30. Where, in the opinion of the Registrar, a used car dealer is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and sections 7 to 19 apply to the order in the same manner as to a decision of the Registrar refusing registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final. 1968-69, c. 136, s. 30.

Service

31.—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Department.

Idem

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing.

Exception

(3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal. 1968-69, c. 136, s. 31.

Restraining orders

32.—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Court of Appeal from an order made under subsection 1. 1968-69, c. 136, s. 32.

Offences

33.—(1) Every person who, knowingly,

(*a*) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(*b*) fails to comply with any order, direction or other requirement made under this Act; or

(*c*) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an

offence and on summary conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein.

Consent of Minister

(3) No proceedings under this section shall be instituted except with the consent of the Minister.

Limitation

(4) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

Idem

(5) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose. 1968-69, c. 136, s. 33.

Certificate as evidence

34. A statement as to,

(*a*) the registration or non-registration of any person;

(*b*) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;

(*c*) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or

(*d*) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, document or material,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1968-69, c. 136, s. 34.

Regulations

35. The Lieutenant Governor in Council may make regulations,

(*a*) exempting any class of person from this Act or the regulations or any provision thereof;

(*b*) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;

(*c*) requiring the payment of fees on application for registration or renewal of registration, and prescribing the amounts thereof;

(*d*) requiring registered used car dealers or any class thereof to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;

(*e*) prescribing further procedures respecting the conduct of matters coming before the Tribunal;

(*f*) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof;

(*g*) requiring and governing the maintenance of trust accounts by used car dealers or any class thereof, and prescribing the moneys that shall be held in trust and the terms and conditions therefor;

(*h*) requiring and governing the books, accounts and records that shall be kept by used car dealers;

(*i*) requiring used car dealers and salesmen to make returns and furnish information to the Registrar;

(*j*) prescribing the information that used car dealers and salesmen shall disclose respecting the history of any class or classes of used cars;

(*k*) prohibiting prescribed alterations of used cars or any part thereof and requiring disclosure of prescribed alterations not prohibited;

(*l*) governing contracts for the sale and purchase of used cars;

(*m*) prescribing forms for the purposes of this Act and providing for their use;

(*n*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit. 1968-69, c. 136, s. 35.

CHAPTER 476

The Vacant Land Cultivation Act

1. The councils of local municipalities may pass by-laws, By-laws re

(*a*) for granting permits to any person to enter upon, hold and use any vacant land in the municipality for the purpose only of cultivating it and raising thereon such crops as may be prescribed by the by-law or permit during such period not extending beyond the current year and on such terms and conditions as may be considered proper, and for regulating and controlling the use of such land by the holder of a permit; permits to cultivate vacant land

(*b*) for revoking any permit for failure to comply with the terms and conditions of the by-law or of the permit or whenever the council determines that the land is immediately required by the owner for building or manufacturing or other revenue-producing purposes. R.S.O. 1960, c. 411, s. 1. revoking permit

2. The fee for the permit shall not exceed $1. R.S.O. 1960, c. 411, s. 2. Fee

3. Before issuing a permit with respect to any parcel of land, notice of the intention of the council to issue permits with respect to it and fixing a day for hearing any objections that he may desire to make shall be left with the owner or transmitted to him by mail to the address of his residence or place of business in the municipality, if he resides or has a place of business there, and, if he is not resident in the municipality, then by mail to him at his last known place of residence. R.S.O. 1960, c. 411, s. 3. Hearing objections

4. The council shall not issue a permit with respect to any parcel of land if the owner of it shows to the satisfaction of the council that it will be required by him during the current year for building or manufacturing or other revenue-producing purposes. R.S.O. 1960, c. 411, s. 4. When permit not to issue

5. No compensation shall be paid to any owner or other person interested in such land for or on account of the exercise of the powers conferred by this Act. R.S.O. 1960, c. 411, s. 5. No compensation to owner

6. If the council revokes a permit because it has determined that the land is immediately required by the owner for building or manufacturing or other revenue-producing purposes, it shall pay Compensation to holder if permit revoked

to the holder of the permit for the loss occasioned by such revocation such compensation, not exceeding $50 in the case of any one permit, as may be agreed upon, and in case of failure to agree, as may be determined by a provincial judge in the municipality on the application of the council or of the holder of the permit, and the fee of the provincial judge for determining the compensation shall be not more than $2, of which half shall be paid by the holder and half by the corporation. R.S.O. 1960, c. 411, s. 6, *amended*.

Powers of Director of General Welfare Assistance

7. The person designated by the Lieutenant Governor in Council as Director of General Welfare Assistance may exercise in any part of Ontario any of the powers conferred by this Act on the council of a local municipality and the provisions of this Act, except section 6, applicable to a council of a local municipality apply *mutatis mutandis* to the Director of General Welfare Assistance. R.S.O. 1960, c. 411, s. 7.

CHAPTER 477

The Variation of Trusts Act

Jurisdiction of courts to vary trusts

1.—(1) Where property, real or personal, is held on trusts heretofore or hereafter arising under any will, settlement or other disposition, the Supreme Court may, if it thinks fit, by order approve on behalf of,

(*a*) any person having, directly or indirectly, an interest, whether vested or contingent, under the trusts who by reason of infancy or other incapacity is incapable of assenting; or

(*b*) any person, whether ascertained or not, who may become entitled, directly or indirectly, to an interest under the trusts as being at a future date or on the happening of a future event a person of any specified description or a member of any specified class of persons; or

(*c*) any person unborn; or

(*d*) any person in respect of any interest of his that may arise by reason of any discretionary power given to anyone on the failure or determination of any existing interest that has not failed or determined,

any arrangement, by whomsoever proposed and whether or not there is any other person beneficially interested who is capable of assenting thereto, varying or revoking all or any of the trusts or enlarging the powers of the trustees of managing or administering any of the property subject to the trusts.

Benefit

(2) The court shall not approve an arrangement on behalf of any person coming within clause *a*, *b* or *c* of subsection 1 unless the carrying out thereof appears to be for the benefit of that person. R.S.O. 1960, c. 413, s. 1.

Where surrogate court grants affected

2. Where a person proposes that an arrangement be approved by the Supreme Court under this Act and the court makes an order with respect thereto that affects any trust or the powers of trustees mentioned in a will that is the subject of any grant from a surrogate court, the order shall contain a provision requiring such person to forthwith cause a certified copy of the order to be filed with the registrar of the surrogate court that made the grant. 1961-62, c. 141, s. 1.

CHAPTER 478

The Vendors and Purchasers Act

1. In the completion of a contract of sale of land the rights and obligations of the vendor and the purchaser shall, subject to any stipulation to the contrary in the contract, be regulated by the following rules: Rights of vendors and purchasers in contracts of sale of lands

1. Recitals, statements and descriptions of facts, matters and parties contained in statutes, deeds, instruments or statutory declarations twenty years old at the date of the contract, unless and except in so far as they are proved to be inaccurate, are sufficient evidence of the truth of such facts, matters and descriptions. Recitals, etc., 20 years old, of facts, etc., *prima facie* evidence

2. A registered memorial of a discharged mortgage is sufficient evidence of the mortgage without the production of the mortgage, unless and except in so far as the memorial is proved to be inaccurate, and the vendor is not bound to produce the mortgage unless it is in his possession or power. Memorials of discharged mortgages

3. A registered memorial twenty years old of any other instrument, if the memorial purports to be executed by the grantor, or in other cases if possession has been consistent with the registered title, is sufficient evidence without the production of the instrument to which the memorial relates, unless and except in so far as the memorial is proved to be inaccurate, and the vendor is not bound to produce the original instrument unless it is in his possession or power, and the memorial shall be presumed to contain all the material contents of the instrument to which it relates. Memorials 20 years old, when, and of what, evidence

4. The inability of the vendor to furnish the purchaser with a legal covenant to produce and furnish copies of documents of title, is not an objection to the title if the purchaser will, on the completion of the contract, have an equitable right to the production of such documents. R.S.O. 1960, c. 414, s. 1. Inability to furnish covenant to produce and furnish documents of title

2. In an action it is not necessary to produce any evidence that by section 1 is dispensed with as between vendor and purchaser, and the evidence therein declared to be sufficient as between vendor and purchaser is *prima facie* sufficient for the purposes of the action. R.S.O. 1960, c. 414, s. 2. Evidence in actions

Applications to court as to requisitions, objections, compensation, etc.

3.—(1) A vendor or purchaser of real or leasehold estate or his representative may at any time and from time to time apply in a summary way to the Supreme Court or to the county or district court of the county or district in which the land or any part thereof is situate in respect of any requisition or objection or any claim for compensation or any other question arising out of or connected with the contract, except a question affecting the existence or validity of the contract, and the court may make such order upon the application as may be considered just. R.S.O. 1960, c. 414, s. 3 (1); 1960-61, c. 101, s. 1 (1).

Removal of proceedings into Supreme Court

(2) Where an application under subsection 1 is made to a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be removed into the Supreme Court.

Transmission of proceedings

(3) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the application is made.

Removal of proceedings

(4) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings are *ipso facto* removed into the Supreme Court. R.S.O. 1960, c. 414, s. 3 (2-4).

Reference to master

(5) Where an application under subsection 1 is made to or is removed into the Supreme Court, the court may refer any question to a master or other officer for inquiry and report. R.S.O. 1960, c. 414, s. 3 (5); 1960-61, c. 101, s. 1 (2).

Appeal

(6) An appeal lies to the Court of Appeal from any order made under this section. R.S.O. 1960, c. 414, s. 3 (6).

Terms of agreement of sale and purchase

4. Every contract for the sale and purchase of land shall, unless otherwise stipulated, be deemed to provide that,

(*a*) the vendor is not bound to produce any abstract of title, deed, copies of deeds or other evidence of title except such as are in his possession or control;

(*b*) the purchaser shall search the title at his own expense and shall make his objections thereto in writing within thirty days from the making of the contract;

(*c*) the vendor has thirty days in which to remove any objection made to the title, but if he is unable or unwilling to remove any objection that the purchaser is not willing to waive, he may cancel the contract and return any deposit made but is not otherwise liable to the purchaser;

(*d*) taxes, local improvement rates, insurance premiums, rents and interest, shall be adjusted as at the date of closing;

(*e*) the conveyance shall be prepared by the vendor and the mortgage, if any, by the purchaser and the purchaser shall bear the expense of registration of the deed and the vendor shall bear the expense of the registration of the mortgage if any;

(*f*) the purchaser is entitled to possession or the receipt of rents and profits upon the closing of the transaction. R.S.O. 1960, c. 414, s. 4.

CHAPTER 479

The Venereal Diseases Prevention Act

Interpretation

1. In this Act,

R.S.O. 1970, c. 377

(a) "medical officer of health" means a medical officer of health appointed under *The Public Health Act*;

(b) "Minister" means the Minister of Health;

(c) "place of detention" means a hospital, sanatorium, correctional institution, lock-up, Ontario training school, or any place designated as a place of detention by the Lieutenant Governor in Council but does not include an isolation hospital for the care of communicable diseases, other than venereal disease, as defined by *The Public Health Act*;

(d) "physician" means a legally qualified medical practitioner;

(e) "prescribed" means prescribed by the regulations;

(f) "regulations" means the regulations made under this Act or *The Public Health Act*;

(g) "venereal disease" means syphilis, gonorrhoea or chancroid. R.S.O. 1960, c. 415, s. 1, *amended*.

Infected person to submit to treatment

2.—(1) Every person infected with venereal disease upon becoming aware or suspecting that he is so infected shall place himself forthwith under the care and treatment of a physician, and if unable to obtain such care or treatment he shall apply to the medical officer of health for the place in which he is ordinarily or temporarily resident.

Idem

(2) Every such person shall conduct himself in such a manner as not to expose other persons to the danger of infection, and shall take and continue treatment in a manner and to an extent considered to be adequate by the attending physician and the Minister. R.S.O. 1960, c. 415, s. 2.

Duty to report

3.—(1) It is the duty of,

(a) every physician;

(b) every superintendent or head of a hospital, sanatorium or laboratory; and

(c) every person in medical charge of any correctional institution, lock-up, training school, school or college, or other similar institution,

to report to the Minister every case of venereal disease coming under his diagnosis, treatment, care or charge for the first time.

within 24 hours

(2) The report in the prescribed form shall be completed and forwarded to the Minister within twenty-four hours after the first diagnosis, treatment or knowledge by or of such physician, head or other person. R.S.O. 1960, c. 415, s. 3, *amended*.

Action of m.o.h. on reasonable belief

4.—(1) Where a medical officer of health has reasonable grounds for believing that a person within the municipality is or may be infected with venereal disease or has been exposed to infection, the medical officer of health may give notice in writing in the prescribed form to such person directing him to submit to an examination by a physician designated by or satisfactory to the medical officer of health, and to procure and produce to the medical officer of health within the time specified in the notice, a report or certificate of the physician that such person is or is not infected with venereal disease.

Offence

(2) Every person who without reasonable excuse, the proof of which is upon him, fails to comply with a direction made under subsection 1 is guilty of an offence and liable to imprisonment for a term of not less than seven days and not more than twelve months.

Powers of m.o.h. on report

(3) If by the report or certificate mentioned in subsection 1 it appears that the person so notified is infected with venereal disease, the medical officer of health may,

(*a*) deliver to such person directions in the prescribed form as to the course of conduct to be pursued and may require such person to produce from time to time evidence satisfactory to the medical officer of health that he is undergoing adequate medical treatment and is in other respects carrying out such directions, and where such person fails to comply with the course of conduct prescribed for him or to produce the evidence required, the medical officer of health may exercise all the powers vested in him by clause *b* or may proceed under section 6; or

(*b*) with the approval of the Minister, order in writing that such person be removed and detained in a place of detention for the prescribed treatment until such time as the medical officer of health is satisfied that an adequate degree of treatment has been attained.

Duties of peace officer on order of m.o.h.

(4) Where a medical officer of health makes an order under clause *b* of subsection 3, he shall deliver the order to a peace officer who shall thereupon take the person named in the order into his custody and remove him to the place of detention named in the order, and the person for the time being in charge of the place of detention, upon receiving the order, shall receive such person and

shall detain him until he is authorized by the medical officer of health to release him.

Where person certified within one year

(5) A medical officer of health may adopt the procedure or do any of the acts referred to in subsection 3 with regard to any person who has been examined by a physician at any time within one year previously and has been certified by such physician to be infected with syphilis.

More than one examination may be required

(6) A medical officer of health may require a person whom he believes may be infected with venereal disease to undergo more than one examination in order to determine the presence or absence of such infection. R.S.O. 1960, c. 415, s. 4.

Authority of medical officer of health

5.—(1) Where,

(*a*) any person has been named under oath as a source or contact of gonorrhoea infection or is believed by the medical officer of health to be a source or contact of such infection; and

(*b*) in the opinion of the medical officer of health the clinical findings and history of such person indicate that such person is or may be infected with gonorrhoea,

the medical officer of health may, whether or not laboratory findings indicate the presence of gonorrhoea infection, proceed in the manner prescribed in clauses *a* and *b* of subsection 3 of section 4.

Medical officer of health may take statement under oath

(2) For the purposes of subsection 1, a medical officer of health may administer an oath and take a statement under oath. R.S.O. 1960, c. 415, s. 5.

Information or complaint

6.—(1) Any medical officer of health may make a complaint or lay an information in writing and under oath before a justice of the peace charging that the circumstances set out in clause *a* or *b* of subsection 5 exist with regard to any person named in such complaint or information.

Issue of summons

(2) Upon receiving any such complaint or information, the justice of the peace shall hear and consider the allegations of the complainant, and if he considers it desirable or necessary the evidence of any witness or witnesses, and if he is of the opinion that a case for so doing is made out he shall issue a summons directed to the person complained of requiring him to appear before a provincial judge at a time and place named therein.

Issue of warrant

(3) Where a person to whom a summons is directed does not appear at the time and place named therein or where it appears that a summons cannot be served, a provincial judge may issue a warrant directing that the person named in the summons be brought before him.

Provincial judge's inquiry

(4) Where a person appears or is brought before a provincial judge under this section, the judge shall inquire into the truth of the matters charged in the complaint or information and for such purpose shall proceed in the manner prescribed by *The Summary Convictions Act* and has the powers of a provincial judge holding a hearing under that Act.

R.S.O. 1970, c. 450

Order for detention

(5) Where a provincial judge finds that any person,

(*a*) is infected with a venereal disease and is unwilling or unable to conduct himself in such a manner as not to expose other persons to the danger of infection; or

(*b*) is infected with a venereal disease and refuses or neglects to take or continue treatment as required by this Act and the regulations,

he shall order that such person be admitted to and detained in a place of detention for such period not exceeding one year as the provincial judge may consider necessary.

Laboratory certificate *prima facie* evidence

(6) In any inquiry under this section, a certificate as to the result of any test made, signed or purporting to be signed by the director of a laboratory approved by the Minister is *prima facie* evidence of the facts stated therein and of the authority of the person giving such certificate without any proof of appointment or signature.

Extension of detention

(7) Any person detained under this section may, with the approval in writing of the Minister, be brought before a provincial judge at any time during the last thirty days of the period for which he is so detained, and if the judge finds that he is still infected with venereal disease and in need of further treatment, he may order that such person be further detained for such period not exceeding one year as the judge may consider necessary.

Discharge by Minister

(8) Where the Minister is of the opinion that any person detained under this section is no longer infected with venereal disease or has received an adequate degree of treatment, he may direct the discharge of such person. R.S.O. 1960, c. 415, s. 6, *amended*.

Examination by physician in charge of institution

7.—(1) Where any physician in medical charge of any correctional institution, lock-up or training school, has reason to believe that any person under his charge may be infected with venereal disease or has been exposed to infection with venereal disease, he may, and if he is directed by the medical officer of health, he shall cause such person to undergo such examination as may be necessary to ascertain whether or not he is infected with venereal disease or to ascertain the extent of venereal disease infection and if the examination discloses that he is so infected the physician shall report the facts to the medical officer of health who may thereupon exercise the powers vested in him by section 9.

(2) Where an examination has not been made under this section, every physician in medical charge of any correctional institution, lock-up, or training school, shall report to the medical officer of health the name and place of confinement of any person under his charge whom he suspects or believes to be infected with venereal disease and the report shall be made within twenty-four hours after he suspects or believes such person to be so infected. Duty of physician in charge of institution

(3) A copy or statement of every report made under this section shall be forwarded to the Minister and to the medical officer of health of the municipality in which such person resided before being admitted to such institution by the physician making the report. R.S.O. 1960, c. 415, s. 7, *amended*. Duplicate report

8. When a medical officer of health believes that any person under arrest or in custody, whether awaiting trial for any offence under or contravention of any statute of Canada or of the Legislature or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction of any such offence or contravention, has been or may be infected or has been exposed to infection with venereal disease, he may cause such person to undergo such examination as may be necessary in order to ascertain whether or not such person is infected with venereal disease or to ascertain the extent of infection with venereal disease, and may direct that such person shall remain in custody until the results of the examination are known. R.S.O. 1960, c. 415, s. 8. Examination of person in custody or committed to prison

9. Where any person under arrest or in custody, whether awaiting trial for any offence under or contravention of any statute of Canada or of the Legislature or any regulation, by-law or order made thereunder or serving the sentence of a court upon conviction of any such offence or contravention, is found to be infected with venereal disease, the medical officer of health may by order in writing direct that such person undergo treatment therefor and that such action be taken as the medical officer of health or the Minister may consider advisable for his isolation and the prevention of infection by him, and that he be detained in custody until cured or until he has received a degree of treatment considered adequate by the attending physician and the Minister notwithstanding that he may be otherwise entitled to be released, and any order made under this section is sufficient warrant to the person to whom the order is addressed to carry out the terms thereof. R.S.O. 1960, c. 415, s. 9. Treatment where disease found to exist

10.—(1) Where a person who has been under treatment for venereal disease refuses or neglects to continue treatment in a manner and to a degree satisfactory to the attending physician and the Minister, the physician shall report to the Minister the Physician to report person refusing to continue treatment

name and address of such person together with such other information as may be required by the regulations.

Failure to attend within seven days

(2) A person who fails to attend upon his physician within seven days of an appointment for treatment shall be presumed to have neglected to continue treatment and the attending physician shall report such failure in writing to the Minister and the medical officer of health within fourteen days of the appointment.

Offence

(3) A physician who fails to report as required by this section is guilty of an offence and is liable to a fine of not less than $25 and not more than $100. R.S.O. 1960, c. 415, s. 10.

Supply of drugs, etc., by unqualified persons prohibited

11.—(1) No person other than a physician shall attend upon or prescribe for or supply or offer to supply any drug, medicine, appliance or treatment to or for a person suffering from venereal disease for the purpose of the alleviation or cure of such disease.

Offence

(2) Every person who contravenes subsection 1 is guilty of an offence and is liable to a fine of not less than $100 and not more than $500 and in default of immediate payment shall be imprisoned for a term of not more than twelve months.

Exception as to chemists

(3) Subsection 1 does not apply to a registered pharmaceutical chemist who dispenses to a patient of a physician upon a written prescription signed by such physician or who sells to any person any patent, proprietary or other medicine, drug or appliance approved by the regulations for the cure or alleviation of venereal disease, but no prescription shall be filled more than once except upon the written direction of the prescribing physician. R.S.O. 1960, c. 415, s. 11, *amended*.

Offences

12.—(1) Every person who,

(*a*) wilfully neglects or disobeys any order or direction given by a medical officer of health or the Minister or Deputy Minister under this Act or the regulations;

(*b*) hinders, delays or obstructs any medical officer of health, peace officer or other person acting in the performance of his duties under this Act;

(*c*) publishes any proceedings taken under this Act or the regulations contrary to subsection 2;

(*d*) wilfully represents himself as bearing some other name than his own or makes any false statements as to his ordinary place of residence during the course of his treatment for any venereal disease with the purpose of concealing his identity;

(*e*) during the course of his treatment for any venereal disease changes his place of residence without giving due notice of such proposed change with his new address to the attending physician; or

(*f*) fails to comply with any of the provisions of this Act or the regulations,

is guilty of an offence and, where no other penalty is prescribed, is liable to a fine of not less than $25 and not more than $100 and in default of immediate payment shall be imprisoned for a term of not more than three months.

Prosecutions R.S.O. 1970, c. 450

(2) *The Summary Convictions Act* applies to prosecutions under this Act or the regulations but all proceedings for the recovery of penalties under this Act and proceedings authorized by section 6 shall be conducted *in camera* and no person shall publish or disclose any such proceedings except under the authority of this Act or the regulations.

Summons by personal service

(3) Notwithstanding the provisions of *The Summary Convictions Act*, service of any summons issued for a contravention of this Act may be effected by personal service. R.S.O. 1960, c. 415, s. 12.

Statements as to existence of disease

13.—(1) Every person who publicly or privately, verbally or in writing, directly or indirectly, states or intimates that any other person has been notified or examined or otherwise dealt with under this Act, whether such statement or intimation is or is not true, is guilty of an offence, and in addition to any other penalty or liability, is liable to a fine of $200 and in default of immediate payment shall be imprisoned for a term of not more than six months.

Exceptions

(2) Subsection 1 does not apply,

(*a*) to a communication or disclosure made in good faith,

(i) to the Minister or Deputy Minister of Health,

(ii) to a medical officer of health for his information in carrying out the provisions of this Act,

(iii) to a physician,

(iv) in the course of consultation for treatment for venereal disease,

(v) to the superintendent or head of any place of detention;

(*b*) to any evidence given in any judicial proceedings of facts relevant to the issue; or

(*c*) to any communication authorized or required to be made by this Act or the regulations.

Information to family

(3) Notwithstanding subsection 1, a physician may give information concerning the patient to other members of the patient's family for the protection of health. R.S.O. 1960, c. 415, s. 13.

Obligation to observe secrecy

14. Every person engaged in the administration of this Act shall preserve secrecy with regard to all matters that may come to

his knowledge in the course of such employment and shall not communicate any such matter to any other person except in the performance of his duties under this Act or when instructed to do so by a medical officer of health or the Minister and in default he shall in addition to any other penalty forfeit his office or be dismissed from his employment. R.S.O. 1960, c. 415, s. 14.

Laboratory reports

15. No person shall issue or make available to any person other than a physician or such persons as are engaged in the administration of this Act any laboratory report either in whole or in part of an examination made to determine the presence or absence of venereal disease. R.S.O. 1960, c. 415, s. 15.

Hospitals to make provision for treatment, etc. R.S.O. 1970, c. 377

16. Every hospital receiving aid from the Province of Ontario, except isolation hospitals for the care of communicable diseases as defined by *The Public Health Act* shall make adequate provision for the reception, examination and treatment, upon such terms as may be prescribed, of such persons or classes of persons infected with venereal disease as may by this Act or the regulations be required or permitted to be treated at such hospital and in case of default the Treasurer of Ontario may withhold from any hospital the whole or any part of any grant or subsidy that would otherwise be payable. R.S.O. 1960, c. 415, s. 16.

Provision for treatment

17. The medical officer of health of each municipality shall make provision for the adequate treatment of all persons infected with venereal disease within such municipality when such persons apply or are referred to him or when requested to do so by the Minister. R.S.O. 1960, c. 415, s. 17.

Payment of expenses by municipalities

18.—(1) The treasurer of the municipality shall forthwith upon demand, pay the amount of any account for services performed, materials or supplies furnished, or any expenditure incurred under the direction of the medical officer of health in carrying out the provisions of this Act and the regulations.

Secrecy as to name

(2) The name of any person infected or suspected to be infected with any venereal disease shall not appear on any account in connection with treatment therefor, but the case shall be designated by a number and it is the duty of every local board of health to see that secrecy is preserved.

Offence

(3) Every person who contravenes the provisions of subsection 2 is guilty of an offence and is liable to the penalties provided by sections 13 and 14. R.S.O. 1960, c. 415, s. 18.

Transfer to other municipality

19. Where any direction or order of a medical officer of health or provincial judge involves the transfer of a person infected with venereal disease from one municipality to another municipality,

(*a*) the medical officer of health of the second municipality shall, upon such transfer being effected and until the return of such person to the first municipality, exercise all the powers and perform all the duties conferred or imposed by this Act or the regulations upon a medical officer of health with respect to such person;

(*b*) the liability of the first municipality under section 18 shall extend to any account for services performed, materials or supplies furnished, or any expenditure incurred in respect of such person under the direction of the medical officer of health for the second municipality in carrying out the provisions of this Act and the regulations; and

(*c*) a duplicate original of every written report made by the person in medical charge of a place of detention in which such person is placed in the second municipality to the medical officer of health thereof shall be sent forthwith to the medical officer of health of the first municipality. R.S.O. 1960, c. 415, s. 19, *amended*.

Places of detention, maintenance, conduct

20. Where a person is admitted to a place of detention under this Act, whether such admission is voluntary or under the order of a provincial judge or medical officer of health,

(*a*) subject to the regulations, the provisions of law relating to the liability for and payment of maintenance of patients, inmates or pupils in such place of detention apply; and

(*b*) such person is subject to all rules, regulations, and provisions of law governing the conduct of patients, inmates or pupils of such place of detention. R.S.O. 1960, c. 415, s. 20, *amended*.

Where person infected is under 16 years of age

21. Where any person infected or believed to be infected with venereal disease is a child under the age of sixteen years, all notices, directions or orders required or authorized by this Act or by the regulations to be given in respect of the child shall be given to the father or mother or to the person having the custody of the child for the time being and it is the duty of the father, mother or other person to see that the child complies in every respect with every such notice, order or direction and in default thereof the father, mother or other person, as the case may be, is liable to the penalties provided by this Act or the regulations for non-compliance with any such notice, direction or order unless on any prosecution in that behalf it is proven to the satisfaction of the court that the father, mother or other person did everything in his power to cause the child to comply therewith. R.S.O. 1960, c. 415, s. 21.

Grants

22. The Minister may make grants out of such moneys as may be appropriated by the Legislature for the purpose,

(*a*) for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the hospitalization, maintenance, treatment and special treatment of persons infected or suspected of being infected with venereal disease in additon to or in lieu of any other moneys that may be payable for such purposes; and

(*b*) so as to reimburse municipalities for expenses incurred by such municipalities in supplying treatment to persons infected or suspected of being infected with venereal disease,

in such amounts, at such times and upon such conditions as may be prescribed by the regulations. R.S.O. 1960, c. 415, s. 22.

Regulations

23.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the method and extent of the examination of any person for the purpose of ascertaining whether or not such person is infected with venereal disease or the extent of the infection;

(*b*) prescribing the course of conduct to be pursued by any person infected with venereal disease in order to effect a cure and to prevent the infection of other persons;

(*c*) prescribing the hospitals that shall furnish treatment to persons or any classes of persons infected with venereal disease;

(*d*) prescribing rules for the treatment of persons infected with venereal disease in hospitals, places of detention and other places;

(*e*) for preventing the spread of infection from persons suffering from venereal disease;

(*f*) for distributing to physicians and hospitals information as to the treatment, diet and care of persons infected with venereal disease and requiring physicians and hospitals to distribute the information to such persons;

(*g*) providing for the approval by the Minister of methods and remedies for the treatment, alleviation and cure of venereal disease;

(*h*) providing for the display of notices and placards dealing with venereal disease, its cause, manifestation, treatment and cure;

(*i*) prescribing the forms of notices, certificates and reports required or authorized to be given or issued under this Act;

(*j*) requiring every physician to furnish reports with respect to the condition and treatment of persons infected with venereal disease who are or who have been under his diagnosis, treatment, care or charge;

(*k*) prescribing the procedure to be followed and the evidence required in case of an appeal to the Minister from any action or decision of a medical officer of health under this Act;

(*l*) approving patent, proprietary or other medicines, drugs or appliances for the cure or alleviation of venereal disease;

(*m*) providing for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the treatment of persons infected or suspected of being infected with venereal disease;

(*n*) requiring the approval of the Minister to the appointment of legally qualified medical practitioners, nurses and other technical staff employed in clinics for the treatment of venereal disease;

(*o*) prescribing the amounts of, the times at which and the conditions upon which grants may be made for the establishment, equipment, operation and maintenance of clinics for the treatment of venereal disease and for the hospitalization, maintenance, treatment and special treatment of persons infected or suspected of being infected with venereal disease and for reimbursing municipalities for expenses incurred by such municipalities in supplying treatment to persons infected or suspected of being infected with venereal disease;

(*p*) prescribing fees that shall be paid under this Act;

(*q*) prescribing the mode of sending or giving any notice, report or direction required or permitted to be sent or given by this Act or the regulations;

(*r*) generally for the better carrying out of the provisions of this Act and for the prevention, treatment and cure of venereal disease.

Expenses of free distribution

(2) The Minister may, out of any moneys appropriated by the Legislature for the purposes of this Act, provide for the payment of the expenses incurred in carrying out this Act and the regulations including the manufacture and free distribution to local boards of health, physicians and hospitals of any drug, medicine, appliance or instrument that the Minister may consider useful or necessary for the alleviation, treatment or cure of venereal disease or the prevention of infection therewith. R.S.O. 1960, c. 415, s. 23.

Appeal to Minister

24.—(1) Every person who considers himself aggrieved by any action or decision of a medical officer of health under this Act may appeal therefrom to the Minister by giving notice in writing to the Minister and to the medical officer of health.

Evidence on appeal

(2) The Minister may require the appellant to furnish such information and evidence and to submit to such examination as may be prescribed or as the Minister may consider necessary to determine the matter in dispute.

Decision final

(3) The decision of the Minister is final. R.S.O. 1960, c. 415, s. 24.

Actions

25. No action or other proceeding shall be brought against any physician in respect of any examination or certificate given or required to be given by him under this Act, without the consent in writing of the Minister. R.S.O. 1960, c. 415, s. 25.

Right of entry

26. The medical officer of health or a physician designated by him in writing for the purpose may enter in and upon any house, outhouse or premises in the day time for the purpose of making inquiry and examination with respect to the state of the health of any person therein and may cause any person found therein who is infected with any venereal disease to be removed to a place of detention or may give such directions as may prevent other persons in the same house, outhouse or premises from being infected. R.S.O. 1960, c. 415, s. 26.

Powers of Deputy Minister

27. The Deputy Minister of Health and any officer of the Department designated by the Minister are medical officers of health for Ontario within the meaning of this Act. R.S.O. 1960, c. 415, s. 27.

Delegation of powers

28. The Minister may delegate to the Deputy Minister of Health or any other officer of the Department of Health any of the powers vested in him under this Act or the regulations. R.S.O. 1960, c. 415, s. 28.

Administration of Act not to interfere with course of justice

29. The administration of this Act and the regulations shall not interfere with the course of justice in the case of any person under arrest or in custody previous to trial for any offence under or contravention of any statute of Canada or of the Legislature or any regulation, by-law or order made thereunder, but where it is necessary for the purpose of any examination authorized or required by this Act, such person may be held in custody until the results of the examination are known. R.S.O. 1960, c. 415, s. 29.

CHAPTER 480

The Veterinarians Act

Interpretation

1.—(1) In this Act,

(*a*) "animal" means a living being, other than a human being;

(*b*) "Association" means the Ontario Veterinary Association;

(*c*) "council" means the council of the Association;

(*d*) "member" means a member of the Association;

(*e*) "Minister" means the Minister of Agriculture and Food;

(*f*) "registered" means registered as a member under this Act and "registration" has a corresponding meaning;

(*g*) "registrar" means the registrar of the Association;

(*h*) "veterinary science" means the application of medicine or surgery to any animal, and includes diagnosing, prescribing, treating, manipulating and operating for the prevention, alleviation or correction of any disease, injury, pain, deficiency, deformity, defect, lesion, disorder or physical condition of or in any animal, with or without the use of instruments, appliances, medicine, drugs, anaesthetics, or antibiotic or biologic preparations, and also includes the giving of advice in respect of anything mentioned in this clause with a view to obtaining a fee or other remuneration. R.S.O. 1960, c. 416, s. 1 (1), *amended*.

Where Act does not apply

(2) Nothing in this Act applies to or affects,

(*a*) the furnishing of first aid or temporary assistance to an animal in an emergency;

(*b*) the treatment of an animal by its owner, by a member of his household or by a person regularly employed by him in agricultural or domestic work;

(*c*) the treatment of an animal by an employee of a member under the supervision of the member;

(*d*) caponizing and the taking of poultry blood samples;

(*e*) the study, prevention and treatment of fish diseases;

(*f*) any act done under *The Artificial Insemination of Cattle Act*; or R.S.O. 1970, c. 30

(*g*) the castration of calves, pigs and lambs. R.S.O. 1960, c. 416, s. 1 (2), *amended*.

Association continued

2. The Ontario Veterinary Association is continued as a corporation and every person registered is a member. R.S.O. 1960, c. 416, s. 2.

Power to acquire property

3. The Association may purchase, acquire or take by gift, devise, bequest or donation any real or personal property for the purposes of the Association and mortgage or lease the same, and may sell or otherwise dispose of any real or personal property not required for the purposes of the Association. R.S.O. 1960, c. 416, s. 3.

Council, composition

4.—(1) The council shall consist of not fewer than nine elected members, each of whom shall be a member of the Association.

elections

(2) The manner of electing the members of the council, the notification of the electors of the time and place of holding the election, the number of electoral districts and the boundaries thereof, the number of members to be elected by each district, the nomination of candidates, the presiding officer thereat, the taking and counting of the votes, the giving of a casting vote in case of an equality of votes, the tenure of office of members and other necessary details shall be as determined by the by-laws.

quorum

(3) At any meeting of the council a majority of the members of the council constitutes a quorum. R.S.O. 1960, c. 416, s. 4.

Officers of council

5. The council shall at its first meeting in each year elect a president, a first vice-president and a second vice-president from among its members, who shall hold office until their successors are elected. R.S.O. 1960, c. 416, s. 5.

Fees and expenses

6. The members of the council, the president, the first vice-president and the second vice-president shall be paid such fees and travelling allowances as the by-laws fix. R.S.O. 1960, c. 416, s. 6.

Officers of Association

7. The council may appoint and fix the remuneration of a registrar, a treasurer and a secretary, none of whom shall be a member of the council, and any or all of such offices may be held by one person. R.S.O. 1960, c. 416, s. 7.

By-laws

8.—(1) The council may pass by-laws,

(*a*) respecting the admission and registration of members;

(*b*) fixing the examination fee, the annual registration fee and the penalty for default in payment of the latter;

(*c*) respecting the register of members;

(*d*) prescribing the notice, the time, the place and the order of business of meetings of the members and of the council;

(*e*) providing for the government and discipline of the members;

(*f*) prescribing a code of professional ethics;

(*g*) defining "unprofessional conduct", "gross negligence" and "incompetence", and designating criminal offences for the purposes of section 13;

(*h*) respecting the election of the members of the council and its officers;

(*i*) providing for the establishment and operation of committees;

(*j*) respecting the board of examiners and the examinations;

(*k*) prescribing the duties of the registrar, the treasurer and the secretary;

(*l*) fixing the fees and travelling allowances of the members of the council and its officers;

(*m*) establishing the governing scholarships, bursaries and prizes;

(*n*) instituting and providing means for increasing the knowledge and skill of the members and for maintaining a high standard of professional ethics;

(*o*) providing for and prescribing the terms and conditions of honorary membership and life membership in the Association;

(*p*) respecting the management of the property of the Association;

(*q*) providing for the investment of any money not immediately required in securities in which trust moneys may be invested by law;

(*r*) for all such purposes as may be considered necessary or convenient for the management of the Association and the conduct of its affairs.

Interpretation of by-laws

(2) As between members, the ruling of the council on the construction and interpretation of the by-laws is final.

Approval of by-laws

(3) No by-law has any force or effect until it has been approved by a general meeting of the members, of which meeting notice shall be given by mail to all members at least thirty days before it is held. R.S.O. 1960, c. 416, s. 8.

Board of examiners

9.—(1) The council shall appoint annually a board of examiners.

Examinations

(2) Examinations of applicants for registration shall be held at least once a year at such place or places as the council may direct.

Application for registration

(3) An application for registration shall be made to the registrar and referred by him to the council which may direct that registration be granted forthwith or that the applicant take an examination before the board of examiners or such members of the board as may be deputed by the council to conduct such examination, but in no case shall a graduate in veterinary science of the Ontario Veterinary College who applies for registration within one year after graduation be required to take a written examination.

Notice of result

(4) As soon as possible after the close of each examination, the members of the board who have conducted the examination shall make and file with the registrar a certificate stating the result of such examination, whereupon the registrar shall notify each candidate of the result of his examination and of the council's decision upon his application. R.S.O. 1960, c. 416, s. 9.

Eligibility for registration

10. No person is eligible for registration unless the council is satisfied that he is,

(*a*) a graduate in veterinary science of the Ontario Veterinary College or the University of Toronto;

(*b*) a graduate in veterinary science of a veterinary college or university recognized by resolution of the council; or

(*c*) entitled to practise under section 11 of *The Veterinarians Act*, being Chapter 416 of the Revised Statutes of Ontario, 1960, or any predecessor thereof. R.S.O. 1960, c. 416, s. 10, *amended*.

Practise prohibited without registration

11.—(1) No person shall practise veterinary science unless he is registered.

Certificates and register

(2) Certificates of registration shall be issued annually by the registrar and he shall keep a register of the names of those to whom certificates are issued. R.S.O. 1960, c. 416, s. 12.

Annual fee

12.—(1) Every member of the Association shall annually on or before the 1st day of December pay to the treasurer such registration fee as the by-laws prescribe for the year next ensuing, and no certificate for that year shall be issued until the fee has been paid. 1968-69, c. 137, s. 1.

Default in payment

(2) Where a member does not pay the prescribed fee on or before the 1st day of February of the year for which it is payable, his registration may, after inquiry, be suspended by the council, but any registration so suspended may be reinstated upon payment of the fee and such penalty, not exceeding $25, as the by-laws prescribe.

(3) As soon as a registration is suspended under subsection 2, the person affected ceases to be registered and the registrar shall make a note thereof in the register. R.S.O. 1960, c. 416, s. 13 (2-3). Effect of suspension

13.—(1) The council may in its discretion suspend or cancel the registration of any member whom is has found to be guilty of unprofessional conduct, gross negligence or incompetence or who has been convicted by a court of competent jurisdiction of a criminal offence designated in the by-laws, or the council may reprimand or censure any such member. Suspension and cancellation of certificates

(2) The council shall not take any such action until after a complaint under oath has been filed with the registrar and a copy thereof forwarded to the member accused, nor without having previously summoned the member to appear before the council, nor without having heard evidence under oath in support of the complaint, nor without affording the member an opportunity of submitting evidence on his behalf. Procedure

(3) The council has for the purposes of this section all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. Powers R.S.O. 1970, c. 379

(4) The evidence given at a hearing under this section shall be taken down by a duly sworn shorthand reporter. Evidence to be taken down

(5) Any person whose registration has been suspended or cancelled may within fifteen days after the date of the order of suspension or cancellation appeal to the Court of Appeal from the order, and the practice and procedure upon the appeal shall be the same as upon an appeal from the judgment of a Supreme Court judge presiding at a trial, and the court may confirm, vary, vacate or set aside the order and may make an order for payment of the costs of the appeal. Appeal

(6) An order of the council suspending or cancelling the registration of a member does not affect the member's right to practise until the time within which an appeal may be taken has expired and, where an appeal is taken, the suspension or cancellation has been upheld by the Court of Appeal. When order effective

(7) As soon as the order for the suspension of a registration becomes effective, the person affected ceases to be registered and the registrar shall make a note thereof in the register. Effect of suspension

(8) As soon as the order for the cancellation of a member's certificate becomes effective, the person affected ceases to be registered and the registrar shall strike the name of the person from the register. Effect of cancellation

(9) The council may restore the registration of any person whose certificate has been suspended or cancelled under this Restoration

section upon such terms and conditions as it considers proper. R.S.O. 1960, c. 416, s. 14.

Evidence of registration

14.—(1) In every case where registration is in issue, the production of a copy of the register, certified under the hand of the registrar, is sufficient evidence of all persons who are registered in lieu of the production of the original register, and any certificate upon such copy of the register purporting to be signed by a person in his capacity as registrar is *prima facie* evidence that such person is the registrar, without any proof of his signature or of his being in fact the registrar.

Idem

(2) The absence of the name of any person from such copy is *prima facie* evidence that such person is not registered. R.S.O. 1960, c. 416, s. 15.

Courses in veterinary science

15. No person shall conduct any course in veterinary science without the written authorization of the Minister, and an authorization shall not be issued until he is satisfied that the requirements of admission and courses of study and instruction are at least equal in standard to those of the Ontario Veterinary College. R.S.O. 1960, c. 416, s. 16.

Use of titles restricted

16. No person, other than a graduate in veterinary science of a college or university that is recognized by resolution of the council, shall use the title "Veterinary", "Veterinarian", "Veterinary Surgeon" or append to his name any such title or any abbreviation thereof. R.S.O. 1960, c. 416, s. 17.

Limitations of actions

17. No action shall be brought against a member for negligence or malpractice by reason of professional services requested of or rendered by him unless the action is commenced within six months after the matter complained of terminated. R.S.O. 1960, c. 416, s. 18.

Witness fees

18. Any member is entitled to professional witness fees in attending any court of law in such cases as relate to veterinary science or the health or condition of any animal. R.S.O. 1960, c. 416, s. 19.

Offences

19.—(1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable, for the first offence, to a fine of not less than $100 and not more than $200 or, for any subsequent offence, to a fine of not less than $200 and not more than $500 or to imprisonment for a term of not more than three months, or to both.

Disposition of fines

(2) Any fine recovered for an offence under this Act is payable to the Association. R.S.O. 1960, c. 416, s. 20.

CHAPTER 481

The Vexatious Proceedings Act

Procedure to prevent bringing of vexatious proceedings

1.—(1) Where upon an application made by way of originating notice according to the practice of the court and with the consent in writing of the Minister of Justice and Attorney General a judge of the Supreme Court is satisfied that any person has habitually and persistently and without any reasonable ground instituted vexatious legal proceedings in the Supreme Court or in any other court against the same person or against different persons, the judge may order that no legal proceedings shall, without leave of the Supreme Court or a judge thereof, be instituted in any court by the person taking such vexatious legal proceedings, and such leave shall not be given unless the court or judge is satisfied that the proceedings are not an abuse of the process of the court and that there is *prima facie* ground for the proceedings. R.S.O. 1960, c. 417, s. 1 (1), *amended*.

Minister of Justice and Attorney General may be heard

(2) The Minister of Justice and Attorney General has the right to appear and be heard in person or by counsel upon any application under subsection 1. R.S.O. 1960, c. 417, s. 1 (2), *amended*.

Publication of order

(3) A copy of an order made under this section shall be published in *The Ontario Gazette*. R.S.O. 1960, c. 417, s. 1 (3).

CHAPTER 482

The Vicious Dogs Act

Dog biting person

1. Where a dog is alleged to have bitten any person, the owner of the dog may be summoned to appear before a provincial judge to show cause why the dog should not be destroyed and, if from the evidence produced it appears that the dog has bitten any person, the judge may make an order that the dog be destroyed. R.S.O. 1960, c. 418, s. 1, *amended*.

CHAPTER 483

The Vital Statistics Act

INTERPRETATION

1. In this Act, Interpretation

(*a*) "birth" means the complete expulsion or extraction from its mother of a foetus that did at any time after being completely expelled or extracted from the mother breathe or show any other sign of life, whether or not the umbilical cord was cut or the placenta attached;

(*b*) "cemetery" includes a vault, a mausoleum and any land that is set apart or used for the interment of the dead or in which bodies are buried;

(*c*) "cemetery owner" includes the person who is in charge of a cemetery or crematorium under the authority of the owner thereof;

(*d*) "certificate" means a certified extract of the prescribed particulars of a registration in the records of the Registrar General;

(*e*) "cremation" means the disposal of a dead body by incineration under *The Cemeteries Act*; R.S.O. 1970, c. 57

(*f*) "Deputy Registrar General" means the Deputy Registrar General appointed under this Act;

(*g*) "division registrar" means a division registrar appointed under this Act and includes a superintendent of an Indian agency;

(*h*) "divorce" means dissolution and annulment of marriage and includes nullity of marriage;

(*i*) "error" means any incorrect information and includes omission of information;

(*j*) "funeral director" means a person who takes charge of the body of a still-born child or a deceased person for the purpose of burial, cremation or other disposition;

(*k*) "incapable" means unable through death, illness, absence from Ontario or otherwise;

(*l*) "Indian" means an Indian within the meaning of the *Indian Act* (Canada) but does not include an enfranchised Indian; R.S.C. 1952, c. 149

(*m*) "inspector" means an inspector of vital statistics appointed for the purposes of this Act;

(*n*) "municipality" means a city, town, village, organized township or improvement district;

(*o*) "notation" means any addition to, or alteration of, a registration in the records of the Registrar General or a division registrar;

(*p*) "nurse" includes any person, other than a legally qualified medical practitioner, who attends at the birth of a child;

(*q*) "occupier" includes a governor, keeper, warden, superintendent, manager or resident physician of any correctional institution, penitentiary or other place of detention, a children's home or orphanage, a public or private medical, surgical, maternity or mental hospital, or any public or private charitable institution, a manager of a hotel, and a keeper of a house for public accommodation, a tourist camp or other stopping-place for persons;

(*r*) "prescribed form" means the form prescribed by the regulations;

(*s*) "Registrar General" means the member of the Executive Council who is charged with the administration of this Act;

(*t*) "religious body" means a church or any religious denomination, sect, congregation or society;

(*u*) "state" means any state or territory of the United States of America, or the District of Columbia;

(*v*) "still-birth" means the complete expulsion or extraction from its mother after the twentieth week of pregnancy of a foetus that did not at any time after being completely expelled or extracted from the mother breathe or show any other sign of life;

(*w*) "superintendent of an Indian agency" means a superintendent within the meaning of the *Indian Act* (Canada). R.S.O. 1960, c. 419, s. 1; 1961-62, c. 142, s. 1, *amended*.

R.S.C. 1952, c. 149

ADMINISTRATION

Uniform system of registration

2.—(1) The Registrar General shall direct a uniform system of registration of births, marriages, deaths, still-births, adoptions, divorces and changes of name in Ontario, and is charged with the enforcement of the provisions of this Act.

Registrations to be numbered by Registrar General

(2) The Registrar General shall cause the registrations of births, marriages, deaths, still-births, adoptions, divorces and changes of name occurring in Ontario and received in his office to be numbered in seven separate series and otherwise systematically filed according to each calendar year in accordance with the

regulations and carefully kept in vaults provided for that purpose.

Indexing

(3) The Registrar General shall cause the registrations to be indexed separately according to each calendar year, and each index shall contain the numbers and such other particulars of the registrations as may be prescribed by the regulations. R.S.O. 1960, c. 419, s. 2.

Examination of registrations

3.—(1) The Registrar General shall examine the registrations received from the division registrars and, if the registrations are incomplete or unsatisfactory, he shall require such information to be supplied as may be necessary to complete the registration.

Registrations not signed

(2) Where it is found upon examination that any registration received from a division registrar is incomplete as to the required signatures, the Registrar General shall cause the registration to be returned by registered mail to the proper division registrar in order that the signatures may be obtained.

Classification by International List of Causes of Death

(3) The Registrar General shall cause all deaths registered under this Act to be classified according to the International List of Causes of Death as revised at the last decennial revision thereof by the International Commission assembled for that purpose and he shall supply free of charge to every legally qualified medical practioner in Ontario a Physician's Pocket Reference Book explanatory of the list.

Publication by Registrar General

(4) The Registrar General may collate, publish and distribute such statistical information regarding the births, marriages, deaths, still-births, adoptions, divorces and changes of name registered during any period as he may consider to be necessary and in the public interest. R.S.O. 1960, c. 419, s. 3 (1-4).

Annual report

(5) The Registrar General shall, after the close of the calendar year, file with the Provincial Secretary and Minister of Citizenship a report as to the number of births, marriages, deaths, still-births, adoptions, divorces and changes of names registered during the preceding calendar year.

Tabling

(6) The Provincial Secretary and Minister of Citizenship shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1960, c. 419, s. 3 (5, 6), *amended*.

Instructions by Registrar General

(7) The Registrar General shall prepare and issue to every division registrar such detailed instructions as may be required to procure the uniform observance of the provisions of this Act. R.S.O. 1960, c. 419, s. 3 (7).

Deputy Registrar General

4.—(1) There shall be a Deputy Registrar General appointed by the Lieutenant Governor in Council who shall have direct

supervision of the office of the Registrar General and be responsible to the Registrar General for the conduct of his office and who shall perform such other duties as may be prescribed by the regulations or delegated to him by the Registrar General. R.S.O. 1960, c. 419, s. 4 (1); 1970, c. 87, s. 1.

Appointment and duties of inspectors

(2) The Lieutenant Governor in Council may appoint inspectors of vital statistics for the purpose of this Act who shall perform such duties as may be prescribed by the regulations. R.S.O. 1960, c. 419, s. 4 (2).

REGISTRATION OF BIRTHS

Duty of medical practitioners

5.—(1) Every legally qualified medical practitioner who attends at the birth within Ontario of a child shall give notice of the birth.

Duty of nurse

(2) Where no legally qualified medical practitioner is in attendance at the birth, the nurse in attendance shall give the notice of the birth.

Mode of giving notice

(3) The notice of the birth shall be in the prescribed form and shall be given by delivering or mailing the notice within two days after the day of birth to the division registrar of the registration division within which the child was born.

Notice to be preserved

(4) The notice so given shall be transmitted by the division registrar to the Registrar General and preserved by the Registrar General until such time as the registration of the birth has been completed under this Act. R.S.O. 1960, c. 419, s. 5.

Statement of birth

6.—(1) Within thirty days after the day of the birth within Ontario of a child,

(*a*) the mother;

(*b*) if the mother is incapable, the father; or

(*c*) if the mother and father are incapable, the person standing in the place of the parents of the child, shall complete, certify and deliver or mail a statement in the prescribed form respecting the birth to the division registrar of the registration division within which the child was born, but the Registrar General may accept the statement of the father although the mother is not incapable.

No duty on father of illegitimate child to register

(2) Notwithstanding subsection 1, the father of an illegitimate child is not required to register the birth of the child.

Contents of statement

(3) The statement shall state whether the mother of the child is single, married, widowed or divorced, but shall not state whether the parents of the child are married to each other. R.S.O. 1960, c. 419, s. 6 (1-3).

(4) Except as provided in subsection 5, the birth of a child of a married woman shall be registered showing the surname of the husband as the surname of the child, and the particulars of the husband shall be given as those of the father of the child. 1960-61, c. 102, s. 1, *part*; 1962-63, c. 141, s. 1 (1); 1970, c. 87, s. 2 (1). Birth of child to married woman

(5) Where a married woman to whom a child is born files with the division registrar a statutory declaration in the prescribed form, Further alternative procedure in certain cases

(*a*) that when the child was conceived she was living separate and apart from her husband; and

(*b*) that her husband is not the father of the child,

no particulars of the father shall be given in the statement mentioned in subsection 1, unless the mother and a person who acknowledges himself to be the father of the child both so request in writing in the prescribed form, in which case the particulars of the person so acknowledging may be given as the particulars of the father, or the birth may be registered showing the surname of the person so acknowledging as the surname of the child, or both. 1962-63, c. 141, s. 1 (2), *part*; 1970, c. 87, s. 2 (3).

(6) If the request referred to in subsection 5 is made after the registration of the birth, the Registrar General shall amend the registration in accordance with the request. 1962-63, c. 141, s. 1 (2), *part*. Amendment of registration

(7) Except as provided in subsection 8, the birth of a child of an unmarried woman shall be registered showing the surname of the mother as the surname of the child, and no particulars of the father shall be given. Birth of child to unmarried woman

(8) Where an unmarried woman who is the mother of a child and a person acknowledging himself to be the father by statutory declaration in the prescribed form so request, the particulars of the person so acknowledging shall be given as the particulars of the father and the birth shall be registered showing the surname of the person so acknowledging as the surname of the child. Where father acknowleged

(9) The statutory declaration mentioned in subsection 8 shall be filed by the mother with the division registrar or, if the declaration is made after the registration of the birth, with the Registrar General, and in the latter case the Registrar General shall amend the registration in accordance with such declaration. 1960-61, c. 102, s. 1, *part*. Idem

(10) If more than one child is delivered from the mother during a single confinement, a separate statement for each child shall be completed, certified and delivered or mailed as provided in subsection 1, and in each statement the number of children born during the confinement and the number in the order of birth shall be given. R.S.O. 1960, c. 419, s. 6 (6). Plural births

Contravention

7. If the statement respecting the birth of a child is not completed, certified and delivered or mailed in the manner and within the time provided in section 6, every person upon whom the duty of completing, certifying and delivering or mailing the statement is imposed by section 6 remains liable to perform that duty notwithstanding the expiration of the time so provided, and is, in respect of each successive period of thirty days thereafter during which he neglects so to complete, certify and deliver or mail the statement, guilty of a contravention of this Act. R.S.O. 1960, c. 419, s. 7.

Statement of birth when parents fail to supply statement

8.—(1) If the statement respecting the birth of a child is not completed, certified and delivered or mailed in the manner and within the time provided in section 6,

(*a*) the occupier of the premises in which the child was born, if he has knowledge of the birth; or

(*b*) a nurse present at the birth,

shall, upon being required so to do by the Registrar General, complete, certify and deliver or mail the statement to the division registrar of the registration division within which the child was born.

Contravention

(2) Every person who has knowledge of the birth and who neglects to complete, certify and deliver or mail the statement respecting the birth of a child upon being required so to do under subsection 1 is guilty of a contravention of this Act. R.S.O. 1960, c. 419, s. 8.

Registration of birth

9.—(1) Upon receipt, within one year from the day of the birth of a child, of a statement in the prescribed form respecting the birth, the division registrar, if he is satisfied as to the correctness and sufficiency thereof, shall register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth. R.S.O. 1960, c. 419, s. 9 (1).

Not to register after one year

(2) A division registrar shall not register a birth after one year from the day of the birth. R.S.O. 1960, c. 419, s. 9 (4).

Registration of birth by Registrar General

10.—(1) If the birth of a child has not been registered within one year from the day of the birth, application for the registration of the birth may be made to the Registrar General by the person whose birth has not been registered or by any other person. R.S.O. 1960, c. 419, s. 10 (1); 1965, c. 140, s. 2.

Method of application for registration

(2) The application shall be accompanied by,

(*a*) the prescribed fee;

(*b*) a statement in the prescribed form, completed and certified by the applicant or any other person;

(*c*) a statutory declaration in the prescribed form by the applicant or any other person; and

(*d*) such other evidence as may be prescribed by the regulations.

Registration

(3) If the Registrar General is satisfied as to the *bona fides* of the application and the correctness and sufficiency of the evidence adduced in support thereof, and that the regulations have been complied with, he may register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth. R.S.O. 1960, c. 419, s. 10 (2, 3).

Foundlings

11.—(1) If a living new-born child is found deserted, the person who finds the child and any person in whose charge the child is placed shall give to the best of his knowledge and belief to the division registrar of the registration division within which the child is found, within seven days after the finding or taking charge of the child, such information concerning the birth of the child as the informant may possess.

Duties of division registrar

(2) The division registrar, upon receipt of such information regarding the birth of the child and upon being satisfied that every effort has been made to identify the child without success, shall,

(*a*) cause the person who found or has charge of the child to complete a statutory declaration concerning the facts of the finding of the child and to complete and certify, so far as the person is able, a statement in the prescribed form required under subsection 1 of section 6;

(*b*) cause the child to be examined by the local medical officer of health or a legally qualified medical practitioner with a view to determining as nearly as possible the day of the birth of the child, and the examiner shall make a statutory declaration setting forth the facts as determined by the examination; and

(*c*) make a detailed report of the case and transmit the report to the Registrar General together with evidence regarding the birth of the child.

Fee

(3) A legally qualified medical practitioner shall receive a fee of $5 for the examination under clause *b* of subsection 2, which fee shall be paid by the Treasurer of Ontario out of the Consolidated Revenue Fund.

Registration of birth of foundlings

(4) The Registrar General, upon receipt of the evidence referred to in subsection 2, shall review the case and, upon being satisfied as to the correctness and sufficiency of the facts stated, shall register the birth and for the purpose of registration shall establish for the child,

(*a*) a date of birth;

(*b*) a place of birth; and

(*c*) a surname and given name.

Subsequent registration if child identified

(5) If, subsequent to the registration, the identity of the child is established to the satisfaction of the Registrar General, he may by order set aside the registration made pursuant to this section and cause the substitution of a new registration of the birth in accordance with the actual facts of the birth, and cause the original registration to be withdrawn from the registration files and kept in a separate file and sealed.

Date of registration

(6) Where the identity of the child is established and a new registration is made pursuant to subsection 5, the date of the new registration shall be the date of the original registration.

Cancellation of certificates

(7) The holder of a certificate issued in respect of a registration of a birth made pursuant to subsection 4, which registration has been withdrawn pursuant to subsection 5, shall deliver it forthwith upon demand to the Registrar General for cancellation. R.S.O. 1960, c. 419, s. 11.

Registration of child legitimated by subsequent marriage

12.—(1) Where a child has been legitimated by the subsequent intermarriage of his parents and,

(*a*) the parents of the child;

(*b*) where one parent is dead or mentally incapable, the other parent of the child; or

(*c*) where both parents are dead or mentally incapable,

(i) the guardian or person *in loco parentis* of the child, or

(ii) the child if he is of the age of twenty-one years or more,

completes and certifies the statement required under subsection 1 of section 6, delivers the statement to the Registrar General together with such evidence as to the legitimation as is required by the Registrar General and pays the prescribed fee, the Registrar General shall,

(*d*) register the birth as if the parents had been married to each other at the time of the birth; and

(*e*) make a notation on the statement that the registration was made under this section,

and the statement constitutes the registration of the birth. 1965, c. 140, s. 3.

Original registration to be withdrawn

(2) Where the birth of the child has been registered before the marriage, the original registration shall be withdrawn from the registration files and shall be kept in a separate file and sealed. R.S.O. 1960, c. 419, s. 12 (2).

Alteration of given name of child

13.—(1) Where the birth of a child has been registered and,

(*a*) the given name by which the child was registered has been changed; or

(*b*) the child was registered without a given name,

the Registrar General, upon payment of the prescribed fee and upon receipt of a statutory declaration containing such particulars as may be prescribed by the regulations as to the change or giving of the given name, completed by the father, mother or guardian of the child, or the person procuring the name to be changed or given, shall cause a notation of the alteration or addition to be made on the registration of the birth.

Baptismal certificate to be filed

(2) Where the change of the given name is effected by baptism, a certificate of baptism signed by the person who performed the rite of baptism shall be filed with the statutory declaration.

Application of section

(3) This section applies only where the given name of the child was changed or the new name given within ten years after the birth of the child.

Limitation on alterations to given name

(4) No notation shall be made in a registration regarding the given name of a child except in the manner prescribed in subsection 1, or pursuant to the provisions of this Act in respect of adopted children, changes of names and correction of errors. R.S.O. 1960, c. 419, s. 13 (1-4).

Notation to be dated and initialled

(5) Every notation made pursuant to this section shall be dated and initialled by the person making the notation. R.S.O. 1960, c. 419, s. 13 (5); 1965, c. 140, s. 4.

Changes to be shown on certificate

(6) If subsequent to the making of a notation pursuant to this section application is made for a birth certificate, the certificate shall be prepared as if the registration had been made containing the changed or new given name at the time of registration, but, if a certified copy of the registration is required, the certified copy shall contain a copy of the notation made pursuant to subsection 1. R.S.O. 1960, c. 419, s. 13 (6).

REGISTRATION OF STILL-BIRTHS

Statement re still-births

14.—(1) In the case of a still-birth within Ontario, the person who, in the case of a birth, would have been required to furnish particulars of the birth under subsection 1 of section 6 shall complete, certify and deliver a statement in the prescribed form respecting the still-birth to the funeral director in charge of the body.

Medical certificate

(2) The legally qualified medical practitioner in attendance at a still-birth or, where there is no legally qualified medical practitioner in attendance, a coroner shall complete a medical

certificate in the prescribed form of the cause of the still-birth and shall deliver it to the funeral director in charge of the body.

Duty of funeral director

(3) Upon receipt of the statement and the medical certificate, the funeral director shall complete the statement setting forth the proposed date and place of burial, cremation or other disposition or the removal of the body and shall deliver the statement and medical certificate to the division registrar of the proper registration division.

Registration of still-birth

(4) Upon receipt of the statement and the medical certificate, the division registrar, if he is satisfied as to the correctness and sufficiency thereof, shall register the still-birth by signing the statement and medical certificate and thereupon the statement and medical certificate constitute the registration of the still-birth.

Burial permit

(5) Upon the registration of a still-birth, the division registrar, without the payment of any fee, shall forthwith prepare and deliver to the person requiring the same for the purpose of the burial, cremation or other disposition or removal of the body of the still-born child,

(*a*) an acknowledgement that the still-birth has been registered; and

(*b*) a burial permit for the purpose of the burial or other disposition of the body.

Application of ss. 5-10, 12, 17-23

(6) Subject to the provisions of this section, sections 5 to 10, 12 and 17 to 23 apply *mutatis mutandis* to still-births. R.S.O. 1960, c. 419, s. 14.

REGISTRATION OF MARRIAGES

Marriages

15.—(1) Every marriage that is solemnized in Ontario shall be registered under this Act.

Registration of marriage

R.S.O. 1970, c. 261

(2) If an officer designated under clause *m* of section 54 is satisfied as to the correctness and sufficiency of a statement of marriage forwarded to the Registrar General under subsection 2 of section 29 of *The Marriage Act*, he shall register the marriage by signing the statement and then shall mail an acknowledgement of its receipt to the person who solemnized the marriage. R.S.O. 1960, c. 419, s. 15.

Registration of marriage by Registrar General

16. If a marriage has not been registered within one year from the day of the marriage, the registration may be made by the Registrar General upon such evidence as may be prescribed by the regulations. R.S.O. 1960, c. 419, s. 16.

REGISTRATION OF DEATHS

Place of registration of deaths

17.—(1) The death of every person who dies within Ontario shall be registered in the office of the division registrar of the

registration division within which the death occurs or, if the place of death is not known, then in the office of the division registrar of the registration division within which the body is found.

Information respecting deceased

(2) A statement in the prescribed form containing personal particulars of the deceased person shall, upon the request of the funeral director in charge of the body, be completed, certified and delivered to the funeral director,

(*a*) by the nearest relative present at the death or last illness, or any relative who may be available;

(*b*) if no relative is available, by the occupier of the premises in which the person died or, if the occupier is the person who has died, by any adult person residing in the premises who was present at the death or has knowledge of the personal particulars;

(*c*) if the death occurred in unoccupied premises and no relative is available, by any adult person who was present at the death or has knowledge of the personal particulars; or

(*d*) by the coroner who has been notified of the death and has made an investigation or held an inquest regarding the death.

Medical certificate

(3) The legally qualified medical practitioner who was last in attendance during the last illness of a deceased person or the coroner who conducts an investigation or inquest into the death of a person shall, forthwith after the death, investigation or inquest, as the case may be, complete and sign a medical certificate of death in the prescribed form, stating therein the cause of death according to the International List of Causes of Death as last revised by the International Commission called for that purpose, and shall deliver the medical certificate to the funeral director in charge of the body.

Duty of funeral director

(4) Upon receipt of the statement containing the personal particulars and the medical certificate of death, the funeral director shall complete the statement containing personal particulars, setting forth the proposed date and place of burial, cremation or other disposition or the removal of the body, and shall deliver the statement and the medical certificate to the division registrar of the proper registration division. R.S.O. 1960, c. 419, s. 17.

Registration of death by division registrar

18.—(1) Upon the receipt, within one year from the day of the death of a person, of the statement containing the personal particulars and the medical certificate, the division registrar, if he is satisfied as to the correctness and sufficiency thereof, shall register the death by signing the statement and medical certificate, and thereupon the statement and medical certificate constitute the registration of the death.

Time limitation

(2) A division registrar shall not register any death after one year from the day of the death.

Duty of division registrar

(3) Upon the registration of a death, the division registrar, without the payment of any fee, shall forthwith prepare and deliver to the funeral director requiring the same for the purpose of the burial, cremation or other disposition or the removal of the body of the deceased person,

(*a*) an acknowledgment that the death has been registered; and

(*b*) a burial permit for the purpose of the burial or other disposition of the body. R.S.O. 1960, c. 419, s. 18 (1-3).

Registration in another registration division

19.—(1) If a death has occurred and it is impracticable to register it, by reason of distance, with the division registrar of the proper registration division, registration of the death may be made with the nearest division registrar who, upon payment of the prescribed fee, shall register the death and issue an acknowledgment of registration of death and a burial permit.

Fee for registration in another division

(2) Where a death has been registered in accordance with subsection 1, the division registrar who registers the death is entitled to the fee for his own use. R.S.O. 1960, c. 419, s. 19.

Death by violence or misadventure

20.—(1) If there is reason to believe that a person has died as a result of violence or misadventure or by unfair means or from any cause other than disease, or as a result of negligence, malpractice or misconduct on the part of others or under such circumstances as require investigation, no acknowledgment of registration of death and no burial permit shall be issued by the division registrar unless,

(*a*) the body has been examined by a coroner and the coroner has made inquiry into the circumstances of the death or held an inquest as provided by *The Coroners Act*;

R.S.O. 1970, c. 87

(*b*) the coroner has signed the medical certificate of death; and

(*c*) the other provisions of this Act regarding registration of death have been complied with. R.S.O. 1960, c. 419, s. 20 (1).

Coroner's warrant to bury

(2) Where a person has died under any of the circumstances mentioned in subsection 1 and it is impracticable for the coroner to complete a medical certificate of the cause of death, he may issue his warrant to bury when he has examined the body as provided in *The Coroners Act*, and the division registrar shall issue a burial permit on the delivery to him of the warrant to bury, and the coroner shall, within two days of his determining the cause of death or of the completion of his investigation, certify and deliver

or mail the medical certificate of death to the Registrar General. R.S.O. 1960, c. 419, s. 20 (2); 1966, c. 158, s. 2.

Registration before disposition of body

21.—(1) Subject to subsection 2 of section 20, no person shall bury, cremate or otherwise dispose of the body of any person who dies within Ontario or remove the body from the registration division within which the death occurred or the body is found, and no person shall take part in or conduct any funeral or religious service for the purpose of burial, cremation or other disposition of the body of a deceased person, unless the death has been registered under this Act and an acknowledgment of registration of death and a burial permit has been obtained from the division registrar.

Acknowledgment to be retained by funeral director

(2) The funeral director shall retain the acknowledgment of registration of death as evidence of his having complied with this Act.

Person not to conduct service unless burial permit produced

(3) No person shall conduct a funeral or other religious burial service unless the burial permit signed by the proper division registrar is produced to him.

Delivery of burial permit

(4) A cemetery owner shall not permit the interment or cremation of the body of any person in the cemetery or crematorium unless the burial permit is delivered to him. R.S.O. 1960, c. 419, s. 21 (1-4).

Cemetery owner to retain burial permit

(5) The cemetery owner shall retain the burial permit for a period of at least two years after the burial. R.S.O. 1960, c. 419, s. 21 (5); 1965, c. 140, s. 5.

Where no person in charge of cemetery

(6) Where no person is in charge of the cemetery at the time of the burial or other disposition of the body, the funeral director shall write across the face of the burial permit the words "No person in charge" and shall append his signature thereto and return the burial permit to the division registrar of the registration division in which the burial or other disposition took place. R.S.O. 1960, c. 419, s. 21 (6).

Removal of bodies

22.—(1) If the body of a person is to be removed to the place of burial or other disposition by a transportation company or other common carrier, the removal shall not take place until the burial permit has been affixed to the outside of the casket.

Death outside Ontario

(2) If the death occurred outside of Ontario and the burial or other dispostion of the body is to take place in Ontario, a burial, transit or removal permit or such other document as may be prescribed or required under the laws of the jurisdiction in which the death occurred, signed by the proper officer of the place in which the death occurred, is sufficient authority for the burial or other disposition of the body. R.S.O. 1960, c. 419, s. 22.

Registration of death by Registrar General

23.—(1) If the death of a person has not been registered within one year from the day of the death, application for registration of the death may be made to the Registrar General in the prescribed form.

Method of application for registration

(2) The application shall be accompanied by,

(*a*) the prescribed fee;

(*b*) the statement provided for in subsection 2 of section 17, completed and certified;

(*c*) a statutory declaration in the prescribed form by the applicant or any other person; and

(*d*) such other evidence as may be prescribed by the regulations.

Registration of death

(3) If the Registrar General is satisfied as to the *bona fides* of the application and the correctness and sufficiency of the evidence adduced in support thereof, he may register the death by signing the statement, and thereupon the statement constitutes the registration of the death. R.S.O. 1960, c. 419, s. 24.

ADOPTION ORDERS

Registration of adoption orders R.S.O. 1970, c. 64

24.—(1) Upon receipt of a certified copy of an adoption order transmitted under subsection 2 of section 80 of *The Child Welfare Act*, or any predecessor thereof, or a certified copy of an order, judgment or decree of adoption made by a court of competent jurisdiction of another province or territory of Canada or of a foreign state, issued under the seal of the proper certifying authority, the Registrar General shall register the order, judgment or decree. R.S.O. 1960, c. 419, s. 25 (1).

Change in birth registration

(2) If the birth of the person adopted,

(*a*) was registered in Ontario before the adoption; or

(*b*) is registered in Ontario after the adoption in accordance with this Act,

the Registrar General, upon production of evidence satisfactory to him of the identity of the person together with an application for the registration of the birth in the prescribed form, may by order set aside any registration made pursuant to section 9, 10, 11 or 12 or to this section and cause the substitution of a new registration of the birth in accordance with the facts contained in the adoption order, judgment or decree as if the adopted person had on the date and in the place of birth recorded in the original registration been born in lawful wedlock to the adopting parent, and cause the original registration to be withdrawn from the registration files and kept in a separate file and sealed, but in every such case, whether or not such an application is made, the Registrar General shall cause a notation of the adoption and of any change of name consequent thereon with a reference to the

registration of the order to be made upon the original registration of the birth of the person, and shall cause a reference to the original registration of the birth to be endorsed on the copy of the order, judgment or decree. R.S.O. 1960, c. 419, s. 25 (2); 1964, c. 123, s. 1.

Idem

(3) Where a new registration is made pursuant to subsection 2, the date of the new registration shall be the date of the original registration.

Birth certificate

(4) Where a new registration has been made pursuant to subsection 2 and application is made for a birth certificate, the certificate shall be issued in accordance with the new registration.

Idem

(5) The holder of a birth certificate in respect of a registration of a birth that has been withdrawn pursuant to subsection 2 shall, forthwith upon demand by the Registrar General, deliver it to the Registrar General for cancellation. R.S.O. 1960, c. 419, s. 25 (3-5).

Child born in another province or state R.S.O. 1970, c. 64

25.—(1) If a child born in another province or in any state has been adopted in Ontario under *The Child Welfare Act*, the Registrar General shall transmit a certified copy of the order to the person having charge of the registration of births in the province or state in which the child was born.

Child born in another jurisdiction

(2) If a child born in a jurisdiction other than a province or state has been adopted in Ontario under *The Child Welfare Act*, the Registrar General, upon request, may transmit a certified copy of the order to the person having charge of the registration of births in the jurisdiction in which the child was born. R.S.O. 1960, c. 419, s. 26.

CHANGES OF NAMES

Registration of change of name

26.—(1) Upon receipt of a document that satisfies the Registrar General that the name of a person whose birth or marriage is registered in Ontario has been changed in accordance with the law of the province or territory of Canada or of the foreign state in which the document was made, the Registrar General shall register the document and note the change of name on the birth or marriage registration of the person.

Certificate after change of name

(2) Where a change of name has been noted on a birth or marriage registration and application is made for a birth or marriage certificate, the certificate shall be issued as if the registration had been made in the name as changed.

Registration of annulment of change of name

(3) Upon receipt of a document that satisfies the Registrar General that a document effecting a change of name has been annulled in accordance with the law of the province or territory of Canada or of the foreign state in which such documents were made, the Registrar General shall register the document and note

the annulment on the birth or marriage registration of the person and on the document effecting the change of name.

Notation to be dated and initialled

(4) Every notation made under this section shall be dated and initialled by an officer designated by the regulations. R.S.O. 1960, c. 419, s. 27.

DIVORCE DECREES

Statement by registrar respecting divorce decrees

27.—(1) The Registrar of the Supreme Court and every local registrar of the Supreme Court shall, from time to time, as prescribed by the regulations, furnish to the Registrar General a statement in the prescribed form respecting each final decree of divorce entered by him in the Supreme Court. R.S.O. 1960, c. 419, s. 28 (1).

Registration of statement

(2) If the marriage dissolved or annulled by the decree was solemnized in Ontario and registered with the Registrar General, the Registrar General, upon receipt of the statement of the divorce, shall register the statement. 1970, c. 87, s. 3.

Certificates prohibited

(3) No certificate of divorce shall be issued by the Registrar General. R.S.O. 1960, c. 419, s. 28 (7).

REGISTRATION OF BIRTHS AND DEATHS OCCURRING ON BOARD SHIP

Births and deaths on board ship R.S.C. 1952, c. 29

28. Upon receipt from the Minister of Transport of information transmitted under the *Canada Shipping Act* (Canada), respecting the birth of a child or the death of a person on board a ship whose port of registry is within Ontario, the Deputy Registrar General may register the birth or death. R.S.O. 1960, c. 419, s. 30.

CHURCH RECORDS

Filing of church records

29.—(1) Any cemetery company or association, or any religious body or historical society or association, or any corporation or individual, in possession of any record of births, marriages, baptisms or deaths that may be of value in establishing the genealogy of any resident in Ontario, may, with the approval of the Registrar General, deposit the record with the Registrar General without charge.

Records to be preserved

(2) Upon being deposited, the records shall be preserved and remain in the custody of the Registrar General as part of the records of his office. R.S.O. 1960, c. 419, s. 31.

CORRECTION OF ERRORS IN REGISTRATIONS

Corrections by division registrar

30.—(1) If, while the registration of any birth, death or still-birth is in the possession of a division registrar, it is reported to him that an error has been made in the registration, he shall inquire into the facts and, if he is satisfied that an error has been

made in the registration, he may correct the error according to the facts by a notation on the registration without any alteration being made in the registration.

Correction by personal appearance

(2) If the person originally supplying the information contained in a registration to be corrected appears in person, the division registrar may permit correction in the original entry.

Correction by Registrar General

(3) If, after a registration has been received or made by the Registrar General, it is reported to him that an error has been made, the Registrar General shall inquire into the facts and, upon the production of evidence satisfactory to him, supplemented by statutory declaration in the prescribed form, he may correct the error by a notation on the registration without any alteration being made in the registration.

Certificate of registration that has been corrected

(4) If, subsequent to the correction of an error, application is made for a certificate pursuant to this Act, the certificate shall be prepared as if the registration had been made containing correct particulars at the time of registration, but, if a certified copy of the registration is required, the certified copy shall contain a copy of the notation made pursuant to subsection 1 or 3.

Notation on registration

(5) Every notation made pursuant to this section shall be dated and initialled by the person making the correction or the officer designated by the regulations. R.S.O. 1960, c. 419, s. 32.

Substitute registrations

31.—(1) If, after a registration of birth has been received or made by the Registrar General, it appears or is reported to him that, because of incorrect information in the registration, the registration does not comply with the requirements of subsections 4 and 7 of section 6, the Registrar General shall inquire into the facts and, upon production of evidence satisfactory to him, supplemented by statutory declaration in the prescribed form, he may, instead of correcting the error under section 30, order that the registration be cancelled and that a new registration of the birth be made. R.S.O. 1960, c. 419, s. 33 (1).

Order to be attached to registration

(2) Where an order is made under subsection 1, the Registrar General shall attach the order to, and cause a notation of the order to be made on, the existing registration, and the existing registration and order shall be kept in a separate file and sealed. R.S.O. 1960, c. 419, s. 33 (2); 1965, c. 140, s. 6 (1).

Certificates and certified copies

(3) Where a substituted registration of birth is made and an application is made for a birth certificate or certified copy of registration in respect of the birth, the certificate or certified copy shall be issued having regard to the substituted registration only. 1965, c. 140, s. 6 (2).

REGISTRATION DIVISIONS

Registration divisions

32.—(1) The whole of Ontario shall be divided into registration divisions.

Municipal units

(2) Every municipality is a registration division.

Unorganized territory

(3) The Lieutenant Governor in Council may divide that part of Ontario not within a municipality into registration divisions, and may from time to time extend, reduce, subdivide or annul any such registration division or merge it in whole or in part with one or more registration divisions and may attach any territory or portion thereof not being part of a municipality to a registration division constituted under subsection 2. R.S.O. 1960, c. 419, s. 34.

APPOINTMENT AND DUTIES OF DIVISION REGISTRARS

Municipal clerks to be division registrars

33.—(1) The clerk of every municipality is *ex officio* division registrar of the registration division formed by the municipality and any territory thereto attached unless the Lieutenant Governor in Council appoints some other person as a division registrar in his stead.

Appointment of division registrar in unorganized territory

(2) The Lieutenant Governor in Council may appoint the division registrar for a registration division that is formed of territory not within a municipality or attached to a municipality.

Power to take affidavits

(3) The division registrar has power to take the affidavit or statutory declaration of any person for the purposes of this Act.

Deputy division registrars

(4) A division registrar may, with the approval of the Registrar General, appoint one or more deputy division registrars to act for him and any such deputy while so acting has all the powers and duties of the division registrar who appointed him.

Sub-registrars

(5) A division registrar may, with the approval of the Registrar General, appoint sub-registrars for the special purpose of issuing burial permits upon the delivery of a completed statement of personal particulars and medical certificate and upon payment of a special fee of 25 cents.

Sub-registrar to forward documents

(6) A sub-registrar shall forthwith transmit the statement of personal particulars and the medical certificate to the division registrar by whom he was appointed. R.S.O. 1960, c. 419, s. 35.

Duties of division registrar

34. The division registrar shall,

(*a*) receive and sign statements and registrations and issue burial permits;

(*b*) supply, free of charge, any prescribed form required by any person in order to comply with this Act;

(*c*) keep all registrations, records, notices and documents received by him in a place of safety;

(*d*) use all available means to obtain the necessary information for the purpose of completing the registrations required to be made by him;

(*e*) inform the proper person of the duty to furnish him with particulars for the registration of a birth, death or still-birth if he has reason to believe that any has taken place within his division and has not been registered, and, on the failure of the person to make the registration within seven days, supply to the Registrar General such information as he has in his possession regarding the failure of any person to furnish the required particulars;

(*f*) examine every statement of birth, death or still-birth in order to ascertain whether or not it has been completed in the prescribed form;

(*g*) ensure that every registration of birth, death or still-birth has been written legibly in durable ink;

(*h*) refuse to accept any statement that does not contain all the items of information required therein unless he has received a satisfactory explanation for the omission;

(*i*) call attention to any defects in a statement of personal particulars or medical certificate of death that is incomplete or unsatisfactory, and withhold the issuance of the acknowledgment of registration of death and the burial permit until the defects have been corrected;

(*j*) sign every registration as division registrar in attestation of the date of registration in his office;

(*k*) number consecutively the registrations of births, deaths and still-births in separate series beginning with "No. 1" for the first registration of a birth, death or still-birth in each calendar year;

(*l*) transmit to the Registrar General as required by the regulations the registration of every birth, death and still-birth made by him;

(*m*) report the fact to the Registrar General, in the prescribed form, if no birth, death or still-birth has been registered;

(*n*) keep such records as may be prescribed by the regulations;

(*o*) transmit to the proper division registrar within forty-eight hours every statement of birth received by him that did not occur within his registration division; and

(*p*) transmit to the proper division registrar within forty-eight hours notice of every registration of death or still-birth made by him that did not occur within his registration division. R.S.O. 1960, c. 419, s. 36; 1961-62, c. 142, s. 2.

Report to Registrar General of any contravention of Act

35. Every division registrar shall, under the direction of the Registrar General, enforce this Act in his registration division and shall make an immediate report to the Registrar General of any

contravention of this Act of which he has knowledge. R.S.O. 1960, c. 419, s. 37.

REMUNERATION OF DIVISION REGISTRAR

Remuneration of division registrar

36.—(1) Every municipality shall pay annually, on the 1st day of February, to the division registrar, a remuneration of 25 cents for each registration of a birth, death or still-birth transmitted to the Registrar General during the preceding calendar year, on presentation of the certificate of the Registrar General to the treasurer of the municipality, but a municipality may by by-law with the approval of the Registrar General limit the aggregate remuneration of the division registrar or provide for the payment of a stated annual remuneration.

Remuneration in unorganized territory

(2) Remuneration at double the rates set forth in subsection 1 shall be paid by the Treasurer of Ontario out of the Consolidated Revenue Fund to every superintendent of an Indian agency and to every division registrar appointed by the Lieutenant Governor in Council for any registration division not included in or attached to a municipality.

Monthly remuneration permissible

(3) Nothing in this section prevents the remuneration of a division registrar being paid to him monthly, but in that case the remuneration shall be paid within ten days of the presentation of the certificate of the Registrar General. R.S.O. 1960, c. 419, s. 38.

FORMS

Registrar General to distribute forms

37.—(1) The Registrar General shall distribute the prescribed forms to the division registrars.

Cost of forms

(2) The cost of the prescribed forms and the distribution thereof shall be paid out of the Consolidated Revenue Fund.

No other forms to be used

(3) No forms shall be used for the purposes of this Act other than the prescribed forms supplied by the Registrar General. R.S.O. 1960, c. 419, s. 39.

CERTIFICATES AND SEARCHES

Contents, of birth certificate

38.—(1) A birth certificate shall contain only the following particulars of the registration:

(*a*) name of the child;

(*b*) date of birth;

(*c*) place of birth;

(*d*) sex;

(*e*) date of registration; and

(*f*) registration number.

(2) A death certificate shall contain only the following particulars of the registration: of death certificate

(a) name, age and marital status of the deceased;

(b) date of death;

(c) place of death;

(d) sex;

(e) date of registration; and

(f) registration number.

(3) A marriage certificate shall contain only the following particulars of the registration: of marriage certificate

(a) names of the parties;

(b) date of the marriage;

(c) place of the marriage;

(d) place of birth of each of the parties;

(e) date of registration; and

(f) registration number.

(4) No still-birth certificate shall be issued. Still-birth certificate

(5) A certificate, order or other document, issued by the Registrar General pursuant to this Act, may bear the seal of office of the Registrar General. R.S.O. 1960, c. 419, s. 40. Certificates under seal

39.—(1) Upon application and upon payment of the prescribed fee, any person who furnishes substantially accurate particulars, and satisifies the Registrar General as to his reason for requiring it, may obtain from the Registrar General a birth certificate in respect of any birth of which there is a registration in his office. Who may obtain, birth certificate

(2) Upon application and upon payment of the prescribed fee, any person may obtain from the Registrar General a death certificate in respect of any death of which there is a registration in his office. death certificate

(3) Upon application and upon payment of the prescribed fee, marriage certificate

(a) one of the parties to the marriage;

(b) a parent of one of the parties;

(c) a child of the marriage; or

(d) any person with the approval of the Registrar General,

may obtain from the Registrar General a marriage certificate in respect of any marriage of which there is a registration in his office. R.S.O. 1960, c. 419, s. 41.

Who may obtain copy of registration of birth, death or still-birth

40.—(1) No certified copy of a registration of birth, death or still-birth shall be issued except to a person authorized by the Registrar General or the order of a court and upon payment of the prescribed fee.

Who may obtain copy of registration of marriage

(2) No certified copy of a registration of marriage shall be issued except to one of the parties to the marriage or to a person authorized by the Registrar General or the order of a court and upon payment of the prescribed fee. R.S.O. 1960, c. 419, s. 42.

Admissibility in evidence of certificates, etc.

41.—(1) A certificate purporting to be issued under section 39 or a certified copy of a registration purporting to be issued under section 40 signed by the Registrar General or Deputy Registrar General or on which the signature of either of them is lithographed, printed or stamped is admissible in any court in Ontario as *prima facie* evidence of the facts so certified, and it is not necessary to prove the signature or official position of the person by whom the certificate or certified copy purports to be signed.

Exception

(2) Notwithstanding subsection 1, no birth certificate and no certified copy of a registration of birth or still-birth is admissible in evidence to affect a presumption of legitimacy. R.S.O. 1960, c. 419, s. 43.

No certificates by division registrar

42. A division registrar shall not issue a certificate in respect of any birth, death, marriage or still-birth. R.S.O. 1960, c. 419, s. 44.

Searches

43.—(1) Any person who,

(*a*) applies;

(*b*) pays the prescribed fee; and

(*c*) satisfies the Registrar General as to his reason for requiring it,

may have search made for the registration of any birth, death, marriage, still-birth, divorce, adoption or change of name in the indexes kept in the office of the Registrar General.

Search of church records

(2) Any person who,

(*a*) applies;

(*b*) pays the prescribed fee; and

(*c*) satisfies the Registrar General as to his reason for requiring it,

may have search made for any birth, marriage, baptism or death in any record kept in the office of the Registrar General pursuant to section 29.

Information given on search

(3) The only information given upon a search under subsection 1 or 2 shall be as to the existence or otherwise of the registration, and the registration number if registered. R.S.O. 1960, c. 419, s. 45.

GENERAL PROVISIONS

Ontario registrations only

44. Subject to section 28 no registration shall be made of a birth, still-birth, marriage or death occurring outside Ontario. R.S.O. 1960, c. 419, s. 46.

Application of Act

45. This Act applies in respect of any birth, marriage, death, still-birth, divorce, adoption or change of name that heretofore occurred or that hereafter occurs. R.S.O. 1960, c. 419, s. 47.

Certificates not to be issued

46. No person shall issue any document that purports to be a certificate of a birth, marriage, death or still-birth other than a certificate provided for under this Act. R.S.O. 1960, c. 419, s. 48.

Registration unlawfully obtained

47.—(1) If, after such notice to and the hearing of such interested parties as he considers proper, the Registrar General is satisfied that a registration was fraudulently or improperly obtained, he may order that a notation be made on the registration to that effect and thereafter no certificate shall be issued in respect of the registration.

Order for delivery of certificate

(2) Upon the making of an order under subsection 1, the Registrar General may require the delivery to him of every certificate previously issued in respect of the registration.

Certificate used improperly

(3) If the Registrar General has reason to believe that a certificate in respect of a registration is being had or used for fraudulent or improper purposes, he may, after such notice to and the hearing of such interested parties as he considers proper, make an order requiring the delivery of the certificate to him.

Delivery of certificates

(4) Any person who has in his possession or under his control a certificate in respect of which an order has been made under subsection 2 or 3 shall forthwith deliver the certificate to the Registrar General. R.S.O. 1960, c. 419, s. 49.

Secrecy

48.—(1) No division registrar, sub-registrar, funeral director or person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not entitled thereto any information obtained under this Act, or allow any such person to inspect or have access to any records containing information obtained under this Act. R.S.O. 1960, c. 419, s. 50; 1965, c. 140, s. 7.

Statistics excepted

(2) Nothing in subsection 1 prohibits the furnishing and publication of information of a general statistical nature that does not disclose information about any individual person. 1970, c. 87, s. 5.

Registration by Registrar General

49.—(1) Where a statement of birth, still-birth or death is received for registration by the Registrar General directly instead of by the division registrar of the registration division within

which the birth, still-birth or death, as the case may be, occurred, the Registrar General may, if he is satisfied as to the correctness and sufficiency of the statement, register the birth, still-birth or death by signing the statement, and thereupon the provisions of this Act relating to the registration of births, still-births and deaths apply *mutatis mutandis* thereto.

Idem

(2) Where the Registrar General registers a birth, still-birth or death under subsection 1, he shall forward a copy of the statement of birth, still-birth or death, as the case may be, received by him for registration to the division registrar of the registration division within which the event occurred. 1966, c. 158, s. 3.

OFFENCES

Failure to give notice or furnish particulars

50.—(1) Every person who neglects or fails to give any notice, or to register or to furnish any statement, certificate or particulars respecting the birth, marriage, death, still-birth, divorce, adoption or change of name of any person as required by this Act, is guilty of an offence and on summary conviction is liable to a fine of not more than $100.

Neglect of division registrar to make returns

(2) If a division registrar fails to transmit to the Registrar General any registration or to make any return as required by this Act, he is guilty of an offence and on summary conviction is liable to a fine of not more than $100, and each succeeding week's continuance of failure to make the transmission or return constitutes a new and distinct offence; and the Registrar General may refuse to issue a certificate for the payment of any fee due to the division registrar until the transmission or return is made. R.S.O. 1960, c. 419, s. 51.

False information

51.—(1) Every person who wilfully makes or causes to be made a false statement in any notice, registration, statement, certificate, return or other document respecting any particulars required to be furnished under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $500 or to imprisonment for a term of not more than six months, or to both; and every legally qualified medical practitioner who wilfully makes a false statement as to the cause of the death of any person, or represents himself as having been in attendance during the last illness of any person when in fact he was not called in attendance until after the death, is, in addition to any penalty imposed by this Act, subject to discipline by the Council of the College of Physicians and Surgeons of Ontario.

False information

(2) Every person who wilfully makes or causes to be made a registration of a birth, marriage, death or still-birth as having occurred in Ontario in respect of any person whose birth, marriage, death or still-birth did not occur in Ontario is guilty of an offence and on summary conviction is liable to a fine of not more than $500 or to imprisonment for a term of not more than six months, or to both. R.S.O. 1960, c. 419, s. 52.

52. Any person contravening any of the provisions of section 48 is guilty of an offence and on summary conviction is liable to a fine of not more than $200. R.S.O. 1960, c. 419, s. 53. Breach of secrecy provision

53. Every person guilty of any act or omission in contravention of this Act for which no penalty is otherwise provided is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1960, c. 419, s. 54. General offence

REGULATIONS

54. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) prescribing forms and providing for their use;

(*b*) prescribing the duties of the Deputy Registrar General and providing for the delegation to him of such of the powers and duties of the Registrar General as may be considered necessary;

(*c*) prescribing the duties of inspectors;

(*d*) prescribing the system of filing of registrations;

(*e*) prescribing the particulars of registrations to be entered in the indexes;

(*f*) prescribing the duties of and records to be kept by the division registrars;

(*g*) prescribing the information and returns to be furnished to the Registrar General and fixing the times when information and returns are to be transmitted;

(*h*) fixing the times when division registrars shall forward registrations to the Registrar General;

(*i*) prescribing the duties of and returns to be made by sub-registrars;

(*j*) designating the persons who may have access to or may be given information from the records in the Registrar General's office or in a division registrar's office, and prescribing an oath of secrecy to be taken by such persons;

(*k*) for the registration of births, marriages, deaths, still-births, divorces, adoptions or changes of name in cases not otherwise provided for in this Act;

(*l*) prescribing the fees to be paid for searches, certificates and anything done or permitted to be done under this Act and providing for the waiver of payment of any such fees in favour of any person or class of persons;

(*m*) designating the officers who may sign registrations and notations;

(*n*) prescribing the evidence on which the Registrar General may register a birth, still-birth, marriage or death after one year from the date thereof;

(*o*) prescribing the evidence on which the Registrar General may make a registration of birth in the case of a child legitimated by the subsequent inter-marriage of his parents;

(*p*) requiring the persons in charge of hospitals to make returns of the births of all children born in the hospitals;

(*q*) prescribing special forms for registrations in respect of Indians;

(*r*) providing that registrations in respect of Indians shall be kept separate from other registrations;

(*s*) authorizing every superintendent of an Indian agency in Ontario to act *ex officio* as division registrar for the Indians under his jurisdiction;

(*t*) for the purpose of effectively securing the due observance of the Act and generally for the better carrying out of the provisions thereof and obtaining the information required thereby. R.S.O. 1960, c. 419, s. 55; 1966, c. 158, s. 4.

CHAPTER 484

The Vocational Rehabilitation Services Act

Interpretation

1. In this Act,

(*a*) "Director" means the Director of the Vocational Rehabilitation Services Branch of the Department of Social and Family Services;

(*b*) "disabled person" means a person who because of physical or mental impairment is incapable of pursuing regularly any substantially gainful occupation as determined by the regulations;

(*c*) "Minister" means the Minister of Social and Family Services;

(*d*) "regulations" means the regulations made under this Act;

(*e*) "vocational rehabilitation services" means goods, allowances or services provided under the rehabilitation program established under section 5;

(*f*) "workshop" means a place where any manufacture or handiwork is carried on and that is operated for the purpose of providing useful and remunerative employment and work training or work assessment under actual or simulated working conditions for vocationally handicapped persons. 1966, c. 159, s. 1, *amended*.

Agreements

2. The Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Government of Canada or with any person or organization for the purpose of providing vocational rehabilitation services to disabled persons or in respect of the provision of such service. 1966, c. 159, s. 2.

Approval of organizations for capital grants

3. The Lieutenant Governor in Council may approve any organization providing vocational rehabilitation services to which grants for capital purposes may be paid in accordance with the regulations. 1966, c. 159, s. 3.

Approval of workshops for capital grants

4. The Lieutenant Governor in Council may approve workshops for which grants for capital purposes may be paid in accordance with the regulations. 1966, c. 159, s. 4.

Rehabilitation program

5. A rehabilitation program shall be established to provide,

(*a*) goods or services to enable a disabled person to become

capable of pursuing regularly a substantially gainful occupation;

(*b*) services for the assessment of the individual medical, social and psychological needs of a disabled person and for the formulation of the vocational rehabilitation services likely to be required to meet his needs;

(*c*) rehabilitation counselling, including guidance and adjustment services, and assistance in obtaining, and succeeding in, a substantially gainful occupation;

(*d*) for the payment of costs of assessment, training, prevocational training, work adjustment training and personal adjustment training, including books and training materials;

(*e*) for the payment to disabled persons of maintenance allowances and travelling allowances, including travelling allowances for a disabled person's guide or escort, to the extent necessary to enable the disabled person to derive the full benefit of vocational rehabilitation services provided under this Act;

(*f*) medical, surgical or psychiatric treatment or procedures related or directed thereto that may be expected within a reasonable period of time to eliminate or favourably modify any chronic, cyclical or slowly-progressive impairment that renders a person disabled;

(*g*) appliances designed to support or take the place of a part of the body or to increase the acuity of a sensory organ;

(*h*) necessary initial occupational and business tools, equipment, supplies and licences;

(*i*) for the payment of grants,

(i) to approved organizations for the establishment and expansion of workshops and for other capital purposes, and

(ii) to organizations for the operation of workshops and the provision of other vocational rehabilitation services;

(*j*) for the training of persons as counsellors and administrators to carry out the rehabilitation program;

(*k*) for research relating to vocational rehabilitation services and for the payment of grants to persons or organizations for this purpose; and

(*l*) for such other matters and services as are prescribed by the regulations. 1966, c. 159, s. 5.

Eligibility for services

6. Any disabled person who is ordinarily resident in Ontario and who is eligible therefor as determined by the regulations may

be provided with vocational rehabilitation services. 1966, c. 159, s. 6.

7.—(1) There shall be a Director of the Vocational Rehabilitation Services Branch of the Department of Social and Family Services who shall, Duties of Director

(*a*) make known the rehabilitation program established under this Act to disabled persons and to any other interested person;

(*b*) receive applications for vocational rehabilitation services, determine the eligibility of each applicant and, where the applicant is eligible, determine the nature and extent of the vocational rehabilitation services necessary to meet his needs and direct their provision accordingly;

(*c*) carry out and administer the rehabilitation program established under this Act and foster, co-ordinate and improve the program of organizations or agencies providing vocational rehabilitation services;

(*d*) enter into arrangements with such persons and organizations as may be necessary for the provision of services under this Act;

(*e*) compile statistics and reports relating to the provision of vocational rehabilitation services or the need for such services under this Act; and

(*f*) carry out such other duties as are assigned to him by this Act and the regulations.

(2) Where the Director is absent or there is a vacancy in the office, the powers and duties of the Director shall be exercised and performed by such person in the public service as the Minister may designate. 1966, c. 159, s. 7, *amended*. Where Director absent

8.—(1) Any applicant for or recipient of vocational rehabilitation services may request a hearing and review by the board of review appointed under *The Family Benefits Act* of a decision, order or directive of the Director affecting the applicant or recipient, as the case may be. Application for review R.S.O. 1970, c. 157

(2) The provisions of *The Family Benefits Act* relating to the powers, duties and procedures of the board of review appointed under that Act, and relating to procedure on appeals therefrom to the Court of Appeal, apply *mutatis mutandis* to a hearing and review by the board under this Act. 1968, c. 141, s. 1. Provisions of R.S.O. 1970, c. 157 to apply

9. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) for determining substantially gainful occupations for the purposes of clause *b* of section 1;

(*b*) specifying the organizations approved under section 3 and the workshops approved under section 4;

(*c*) governing the amounts of allowances to be paid to disabled persons or any class thereof, and the manner and time of payment;

(*d*) providing for the apportionment and distribution of grants to organizations approved under section 3 for the establishment and expansion of workshops approved under section 4 operated by such organizations and for other designated capital purposes, and prescribing the terms and conditions upon which grants shall be paid;

(*e*) prescribing the eligibility of workshops and organizations for grants other than grants referred to in clause *d* and providing for the apportionment and distribution of grants to eligible organizations providing workshops or other vocational rehabilitation services or any class thereof, and prescribing the terms and conditions upon which grants shall be paid;

(*f*) prescribing additional matters that shall be included in the rehabilitation program established under section 5;

(*g*) prescribing the classes of disabled persons who are eligible for vocational rehabilitation services, and fixing standards of eligibility;

(*h*) governing applications for vocational rehabilitation services;

(*i*) prescribing additional duties of the Director;

(*j*) establishing an advisory committee to advise the Minister respecting the provision and development of vocational rehabilitation services;

(*k*) establishing a medical advisory board of one or more persons to advise the Director in the performance of his duties;

(*l*) prescribing forms and providing for their use, and requiring the information in any form to be verified by affidavit;

(*m*) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1966, c. 159, s. 9.

10. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. Moneys
1966, c. 159, s. 10, *amended*.

CHAPTER 485

The Voters' Lists Act

Interpretation

1. In this Act,

(*a*) "judge" means the judge of the county or district court of the county or district and includes a junior or acting judge, but does not include a deputy judge;

(*b*) "prescribed" means prescribed by this Act or by the regulations made under this Act;

(*c*) "voter" means a person entitled to be a voter, or to be named in the voters' list as qualified to be a voter at a municipal election. R.S.O. 1960, c. 420, s. 1; 1968-69, c. 138, s. 1.

Rules and forms

2.—(1) The Lieutenant Governor in Council may prescribe rules and forms of procedure for the purpose of better carrying out Parts I and II.

Forms

(2) The forms in the Schedule to this Act may be modified or varied, but any such modification or variation is subject to the approval of the judge. R.S.O. 1960, c. 420, s. 2.

APPLICATION OF PARTS

Application, Part I

3.—(1) Part I applies to towns, villages, townships and, except as varied by Part II, to cities.

Part II

(2) Part II applies to every city in which a by-law has been passed fixing separate dates for the return of the assessment rolls for each ward or division of a ward, as defined in the by-law.

Where list destroyed by fire or accident

(3) Where through accident, fire or otherwise a municipality has no assessment roll or voters' list prepared under Part I or II, the municipality shall for the purposes of this Act be deemed to be a part of Ontario without municipal organization. R.S.O. 1960, c. 420, s. 3.

PART I

LIST OF VOTERS

List of voters

4.—(1) The clerk of each municipality, immediately after the return of the assessment roll in every year, shall make a correct list for each polling subdivision of the municipality (Form 1) of all

persons appearing by the assessment roll or by the supplementary roll prepared by the assessor to be voters.

How made up

(2) The list shall be made up in the same order as the assessment roll is prepared in the municipality except where the council by resolution has directed that it be made up alphabetically.

Where biennial elections

(3) Notwithstanding any other provision in this Act, the clerk of the municipality is not required to prepare a voters' list in any year in which a municipal election is not to be held. R.S.O. 1960, c. 420, s. 7 (1-3).

Name to be entered once only

(4) The name of the same person shall not be entered more than once on the list, except that in the case of a municipality divided into wards the name of the same person shall be entered upon the list as qualified to vote at municipal elections in every ward in which he is assessed for a sufficient amount to qualify him so to vote.

List for polling subdivisions

(5) Where a municipality is divided into polling subdivisions, lists shall be made for each subdivision.

Entering name of husband or wife of person rated

R.S.O. 1970, c. 284

(6) In the case of a person who is a municipal elector by reason of being the wife or husband of the person rated or entitled to be rated for land as provided by *The Municipal Act*, or by reason of being a farmer's daughter, farmer's sister or farmer's son's wife, the clerk shall insert the letters "M.F.N.C." opposite the name of such person in the proper column, meaning that such person is entitled to vote at municipal elections, but is not to be counted for the purpose of determining representation in the county council.

Where qualification in respect of real property

(7) Where the qualification of a person to be a voter at a municipal election is in respect of real property, the clerk shall insert in the proper column opposite the name of such person, the number of the lot or other proper description of the parcel of real property in respect of which such person is so qualified adding thereto, where the person is so qualified in respect of more than one lot or parcel, the words "and other premises".

Farmer's son and farmer's daughter

(8) In the case of a person being a farmer's son or a farmer's daughter, the clerk shall insert opposite the name in the proper column the words "Farmer's Son" or "Farmer's Daughter" or the letters "F.S." or "F.D.", as the case may be.

Entry where voter assessed in several divisions of same ward

(9) Where a ward is divided into polling subdivisions and it appears by the assessment roll that a person is assessed in each of two or more polling subdivisions for property sufficient to entitle him to be a voter at a municipal election, the clerk shall enter his

name on the list for one subdivision only, and shall insert opposite his name the words "and other premises", and where to the knowledge of the clerk the person resides in one of the subdivisions, his name shall be entered on the list for that subdivision.

Where property partly in one subdivision and partly in another

(10) Where it appears by the assessment roll that a person is assessed for property within the municipality sufficient to entitle him to be a voter at a municipal election, but that the property lies partly within one subdivision and partly within another or others, the clerk shall enter the name of such person on the list of voters in only one of the subdivisions in which the property is situate, and add the words "Partly qualified in subdivision No. .....".

Entry in list of person assessed as freeholder or tenant

(11) Where the word "Owner" or the letter "O", or the word "Tenant" or the letter "T", appears in the assessment roll opposite the name of a person entitled to be entered on the list, such word or letter shall be placed opposite the name of such person.

Entries of those qualified as jurors

(12) The clerk in making out the list shall, in a separate column provided for the purpose, insert the letter "J" in the list opposite the name of every person over twenty-one and under seventy years of age who by the roll appears to be qualified and liable to serve as a juror, and the list shall show at or near the end thereof the aggregate number of names of persons upon the list qualified to serve on juries, and in the case of municipalities divided into wards the list shall give the same information for each ward.

Entries of separate school supporters

(13) The clerk shall, in a separate column of the voters' list, insert the letter "S" opposite the name of every person who is shown on the assessment roll as a separate school supporter and also after the name of the wife or husband of every such person if the wife or husband is shown by the roll to be a Roman Catholic. R.S.O. 1960, c. 420, s. 7 (5-14).

Entry of P.O. address of voter

5.—(1) The clerk of every township, in making out the list, shall insert therein a schedule (Form 1) containing the name, numbered consecutively, of every post office which by the assessment roll appears as the address of any person on the list and shall, according to the form and in the proper column therefor, insert opposite the name of every voter entered on the list the consecutive number which according to the schedule is his post office address, so far as the address appears by the assessment roll or is within the knowledge or belief of the clerk, but no appeal or complaint, on the ground of any error, mistake or omission in or from the list in respect of any matter or thing directed to be inserted therein by this section, shall be made or allowed by or under this Act.

Entry of non-resident voter in polling subdivision other than where qualified

(2) Where it appears by the assessment roll of a township that a person who is not resident in the township is entered upon the assessment roll and assessed for sufficient property to entitle him to vote at municipal elections in the township, such non-resident person at any time after the return of the assessment roll and before the reproduction of the voters' list by the clerk may give notice in writing, signed by him and verified by a statutory declaration, to the clerk requesting that his name be entered on the voters' list for some other polling subdivision in the township than that in which he is so assessed, and thereupon the clerk may enter the name of the non-resident person on the list for any other polling subdivision so designated and after the name shall enter the property in respect of which he is qualified to vote and the polling subdivision in which the property is situate. R.S.O. 1960, c. 420, s. 8.

Printing and distribution of list

6.—(1) Immediately after the clerk has made the list, and within thirty days after the return of the assessment roll, the clerk shall cause at least 75 copies of the list to be reproduced by mechanical means in pamphlet form, and immediately thereafter shall cause one of such copies to be posted up and kept posted up in a conspicuous place in his office, and deliver or mail fifteen copies to the clerk of the peace and one copy,

(*a*) to the judge or senior judge of the county or district court of the county or district to which the municipality belongs for judicial purposes;

(*b*) to the head and every member of the council of the municipality;

(*c*) to the sheriff;

(*d*) to every postmaster in the municipality;

(*e*) to the secretary of every school board in the municipality;

(*f*) to the clerk of the council of the county in which the municipality is situate;

(*g*) to the registrar of deeds, if he has so requested in writing before the 1st day of July in the year;

(*h*) to the clerk of the small claims court within whose division the municipality or any part thereof is situate, if he has so requested in writing before the 1st day of July in the year;

(*i*) to the member of the House of Commons and of the Assembly for the electoral district in which the municipality or any part thereof is situate; and

(*j*) to every other candidate for whom votes were given at the then last election of a member of the House of Commons and of the Assembly, respectively, for the electoral district in which the municipality or any part thereof is situate, who has so requested in writing before the 1st day of July in the year. R.S.O. 1960, c. 420, s. 9 (1); 1962-63, c. 142, s. 1.

Where assessment roll delayed

(2) Where the assessment roll of a municipality is not returned on or before the 1st day of October and there is not or will not be time after its return to complete the preparation and revision of the voter's list in accordance with the other provisions of this Act before the time set for the polling in the municipality, the clerk shall print, post up and distribute in accordance with subsection 1 the required number of copies of the voters' list as certified in the next preceding year, and the proceedings thereafter shall be the same as if the list so printed, posted up and distributed was a list prepared by the clerk in accordance with sections 4 and 5. R.S.O. 1960, c. 420, s. 9 (2).

Certificate of clerk

7.—(1) Upon each of the copies of the list so delivered or mailed there shall be a certificate of the clerk (Form 2) stating that the list is a correct list of all persons appearing by the assessment roll to be voters at municipal elections, and the certificate shall contain a clause calling upon all voters to examine the lists and to take immediate proceedings to have omissions or errors corrected according to law.

Endorsement of date

(2) Upon the outside or cover of each of the copies so sent shall be printed or written conspicuously the date of the posting up of the list thus:

"This list was posted up in the Clerk's Office on the.....day of....., 19.....".

R.S.O. 1960, c. 420, s. 10, *amended*.

Posting up

8. Upon receipt of the copies of the list, the sheriff shall post up one copy in a conspicuous place in the court house, the clerk of the peace shall post up one copy in a conspicuous place in his office, and every postmaster shall post up one copy in a conspicuous place in his post office. R.S.O. 1960, c. 420, s. 11.

Notice of transmission and posting up of list

9. The clerk shall also forthwith cause to be inserted at least once in a newspaper published in the municipality, or, if none is published therein, in a newspaper having a general circulation in the municipality, a notice (Form 3) signed by him which shall state that he has delivered or transmitted the copies of the list as directed by this Act, and the date of the first posting up of the list

in his office, and the last day for entering appeals. R.S.O. 1960, c. 420, s. 12.

Revision of list by judge

10.—(1) The list is subject to revision by the judge at the instance of any voter who complains that the names of voters have been omitted from the list or wrongly stated therein, or that the names of persons who are not entitled to be voters have been entered in the list, and the following provisions of this Part and of Part II, so far as they are applicable, apply to revision of the list.

Assessment roll not conclusive

(2) Upon the revision, the assessment roll is not conclusive evidence in regard to any matter.

Idem

(3) Upon the revision, no person is disentitled to have his name entered on the list by reason of his having omitted to make, sign or deliver any statement or affidavit required by *The Assessment Act*, or of his name not having been entered on the assessment roll.

R.S.O. 1970, c. 32

Judge's decision final

(4) The decision of the judge as to the right of any person to vote, or as to the right to enter on or strike from the list the name of any person as a voter, is final.

When evidence by affidavit receivable

(5) In the case of a list for a town, village or township, the judge shall receive, as evidence in support of an application to have the name of a person entered on the list, the affidavit of such person or of some other person who has and deposes that he has personal knowledge of the matter set forth in the affidavit (Form 4), if the affidavit is made not earlier than the tenth day next preceding the last day for making complaints to the judge and is delivered to the clerk before the time for making complaints has expired. R.S.O. 1960, c. 420, s. 13.

Who may appeal or complain

11.—(1) Any voter whose name is entered on or who is entitled to have his name entered on the list has the right for all purposes of this Act, upon giving notice in writing (Form 5) within fourteen days after the clerk has posted up the list in his office, to apply, complain or appeal to have his own name or the name of any person corrected in, entered on or removed from the list.

Persons who have acquired qualification before time for giving notice has expired

(2) Any person who has acquired the qualification entitling him to vote at a municipal election before the time for giving the notice of appeal to the judge has expired shall be deemed to be a person entitled to be entered on the list, and if entered thereon he shall be entered also on the assessment roll and shall be assessed for his property if not already assessed therefor without any request on his part, and the judge and clerk, for the purpose of such assessment, have the powers and shall perform the duties mentioned in section 38.

(3) A person whose name is entered on the list and has, before the time for giving notice of appeal to the judge has expired, ceased to possess the qualification in respect of which his name was so entered, on complaint being duly made under section 13, shall be deemed to be wrongfully entered on the list and, subject to section 15, his name shall be removed therefrom. Complaint that person named on list has lost qualification

(4) For the purpose of determining whether a person has acquired or has ceased to possess the qualification entitling him to vote at a municipal election for the purposes of this section, the assessment roll upon which the current voters' list is based shall be deemed not to have been returned. R.S.O. 1960, c. 420, s. 14. Proviso

12. The judge may, without a previous notice of appeal or complaint, on an application made by or on behalf of a person entered on the list, correct any mistake that appears to have been made in compiling the list in respect of the name, place of abode, qualification, or the local or other description of the property of a person entered on the list and with respect to whose right to be so entered an appeal or complaint is pending before the judge. R.S.O. 1960, c. 420, s. 15. Powers of judge

13.—(1) A voter making a complaint in respect of the list shall, within fourteen days after the clerk has posted up the list in his office, give to the clerk or leave for him at his residence or place of business notice in writing (Form 5) of his complaint. Proceedings on complaint

(2) If the office of clerk is vacant, the notice may be given in like manner to the deputy clerk or to the head of the council of the municipality, and he shall perform all the duties of the clerk. Vacancy in office of clerk

(3) The proceedings thereafter by the judge, clerk and the parties respectively, and the powers and duties of the judge, clerk and other persons shall be the same, as nearly as may be, as in the case of an appeal from the Assessment Review Court under *The Assessment Act*, but no deposits shall be required. Procedure

R.S.O. 1970, c. 32

[NOTE.—*See Forms* 5-10.]

(4) The judge shall be paid by the municipality such allowances and expenses as may be prescribed by the Lieutenant Governor in Council. Allowances and expenses of judge

(5) The clerk shall forthwith after posting up the list of appeals in his office deliver or send by registered mail one copy of the list to the judge, the clerk of the peace and each of the persons described in clauses *b*, *i* and *j* of section 6. R.S.O. 1960, c. 420, s. 16, *amended*. Distribution of list of appeals

14.—(1) Any person may obtain from the county or district court of the county or district a subpoena (Form 11) or from the judge an order, requiring the attendance of a witness residing or Compelling attendance of witnesses

served with the subpoena or order in any part of Ontario and requiring the witness to produce any papers or documents mentioned in the subpoena or order, and every witness served with the subpoena or order shall obey the same if his expenses according to the scale allowed in small claims courts are paid or tendered to him at the time of service.

Compelling attendance of persons whose right is in question

(2) Any person in respect of the entry or omission of whose name a complaint is made shall, if resident within the municipality for or in which the court is held, upon being served with a subpoena or order obey the same without being tendered or paid his expenses, and the subpoena or order shall be deemed to have been sufficiently served,

(*a*) if the subpoena or order is served upon him personally; or

(*b*) where he has a known residence or place of business within the municipality, if a copy of the subpoena or order is left for him with some adult person at his residence or place of business; or

(*c*) where he has a known residence or place of business within the municipality, if a copy of the subpoena or order, at least six days before the sitting of the court, is sent to him by registered mail directed to him at the post office address contained in any affirmation made by him under *The Assessment Act*, and where no such affirmation has been made, directed to him at his last known post office address, and also by separate registered letter directed to the post office described as his post office in the voters' list unless the last-mentioned post office is his last known post office address, or in the case of cities, towns and villages if no post office is described for him in the voters' list, directed to the post office of such city, town or village; or

R.S.O. 1970, c. 32

(*d*) where he is a farmer's son, if a copy of the order or subpoena is left for him with some person at the residence of the farmer whose son he is.

Penalty for non-attendance

(3) If a person whose right to be a voter is the subject of inquiry does not attend in obedience to the subpoena or order, the judge, in the absence of satisfactory excuse being shown for the non-attendance or of proof of right of the person to be a voter, may, on the ground of his non-attendance, strike his name off or refuse to enter his name on the list.

Prima facie evidence of certain facts

(4) The fact that the name of the person is entered on the last revised voters' list of the electoral district is *prima facie* evidence that he is a British subject and twenty-one years of age.

Number of names

(5) The names of any number of witnesses may be inserted in one subpoena or order. R.S.O. 1960, c. 420, s. 17.

When qualification incorrectly stated

15. If on complaint or appeal to strike off the name of a person on the list it appears that the qualification of the person is incorrectly set forth therein but that he has the qualification necessary to entitle his name to be entered on the list, the judge shall not strike off the name of the person but shall make such alterations in the list as are necessary to set forth the proper qualifications of the person. R.S.O. 1960, c. 420, s. 18, *amended*.

Time within which list to be revised

16. The judge shall so arrange and proceed and fix the sittings of the court that all the complaints shall be heard and determined and the list finally revised, corrected and certified within one month from the last day for making complaints. R.S.O. 1960, c. 420, s. 19.

Certifying list by clerk of the peace when no complaint made

17.—(1) If no complaint is made within fourteen days after the clerk has posted up the list in his office, he shall forthwith deliver or mail to the clerk of the peace his report (Form 12), and the clerk of the peace shall thereupon certify (Form 13) a sufficient number of copies of the list as being the last revised list of persons entitled to be voters at municipal elections, to furnish one copy of the list,

(*a*) to the judge;

(*b*) to the clerk of the peace;

(*c*) to the clerk of the municipality;

(*d*) to every candidate for whom votes were given at the then last election of a member for the House of Commons and the Assembly, respectively, for the electoral district in which the municipality or any part thereof is situate, who has so requested in writing before the 1st day of July in the year.

Certificate of clerk of the peace

(2) The clerk of the peace shall retain one certified copy and shall deliver or mail one certified copy to each of the persons described in clauses *a*, *c* and *d* of subsection 1. R.S.O. 1960, c. 420, s. 20, *amended*.

Statement of changes made by judge

18.—(1) If any complaint is made and allowed by the judge, he shall, immediately after the list has been finally revised, certify (Form 14) to the clerk a statement of the changes made by him in the list.

Delivery of copies

(2) The clerk shall thereupon prepare a sufficient number of copies of the statement of changes made by the judge to furnish one copy for each of the persons described in clauses *a*, *c* and *d* of subsection 1 of section 17, and shall, within one week after the

revision has been made by the judge, deliver or mail such copies of the statement of changes, together with the certificate of the judge, to the clerk of the peace, and such statement shall be made out according to polling subdivisions and shall show the changes made in the list for each polling subdivision.

Certificate of clerk of the peace on copies

(3) The clerk of the peace shall thereupon sign and certify (Form 15) such copies together with a copy of the voters' list received by him from the clerk and deliver or send by registered mail one copy to each of the persons described in clauses *a*, *c* and *d* of subsection 1 of section 17.

Delivery and certification of copies of revised list

(4) Instead of proceeding as provided in subsections 1, 2 and 3, the judge may direct the clerk to prepare a sufficient number of copies of the list as revised by the judge to furnish one copy for each of the persons described in clauses *b*, *c* and *d* of subsection 1 of section 17, and the clerk shall within one week after the revision has been made transmit or deliver such copies to the judge, and the judge shall thereupon sign and certify (Form 16) such copies and shall retain one and shall deliver or mail one copy to each of the persons described in clauses *b*, *c* and *d* of subsection 1 of section 17. R.S.O. 1960, c. 420, s. 21.

Remuneration of clerk of the peace

19. The clerk of the peace is entitled to remuneration at the rate of $1 per copy for the services performed by him under subsection 2 of section 17 and subsection 3 of section 18, such remuneration to be paid by the municipality. R.S.O. 1960, c. 420, s. 22.

Striking off names of persons dying after revision

20.—(1) After the list has been certified and before the nomination day at a municipal election, the judge may, upon the application of a voter, strike from the list the name of a person who has died since the list was certified, and for that purpose the certificate of the Registrar General is sufficient evidence of death, but if the identity of the person proved to be dead with the person whose name is sought to be struck off is disputed or open to reasonable doubt, proof of the identity shall be required.

Procedure

(2) The proceedings shall be the same as nearly as may be as those prescribed for the revision of the list, and the judge and the officers named in this Act have the same jurisdiction as in the case of proceedings to revise the list under this Act. R.S.O. 1960, c. 420, s. 23.

Correction of list after revisions of assessment roll

21. If the assessment roll is not certified by the regional registrar or revised by the judge before the time limited for the final revision, correction and certifying of the voters' list by the judge, and, upon appeal to the Assessment Review Court or to the judge, alterations are made in the assessment roll affecting the right of a person to be entered on the list, the regional registrar shall forthwith after certifying the roll and the judge shall

forthwith after revising the roll, make out and certify a list of such alterations and deliver it to the clerk who shall make corresponding changes in the certified copies of the revised list, and the judge shall initial the changes. R.S.O. 1960, c. 420, s. 24, *amended*.

Effect of certified list

22. The certified list is final and conclusive evidence that all persons named therein, and no others, were qualified to vote at any municipal election at which such list was, or was the proper list to be, used except,

(*a*) persons guilty of corrupt practices at or in respect of the election in question, or since the list was certified by the judge;

(*b*) persons who, subsequent to the list being certified, have ceased to be qualified to vote at a municipal election in the municipality to which the list relates and who by reason thereof are, under *The Municipal Act*, disentitled to vote; R.S.O. 1970, c. 284

(*c*) persons whose names are entered on the list under the authority of a certificate issued pursuant to subsection 7 of section 38 of *The Municipal Act*. R.S.O. 1960, c. 420, s. 25.

Duty of municipality to provide room

23.—(1) The municipality within which a court is to be held shall provide a suitable and convenient place, properly furnished, heated and lighted, for the holding of the court, and in default thereof the judge may hold the court at such place in the county or district as he considers proper, and if the court is held elsewhere than in the court house of the county or district, the occupant of the building in which it is held may recover from the municipality the sum of $5 for each day on which the building was used for the purpose of the court.

Courts in county towns

(2) Every court held in the county or district town shall be held in the court house, or in such other place as the judge considers proper. R.S.O. 1960, c. 420, s. 26.

Powers of judge

24. In all proceedings before the judge he has all the powers that belong to or might be exercised by him in the county court. R.S.O. 1960, c. 420, s. 27.

Clerk

25. The clerk of every municipality is subject to the summary jurisdiction and control of the judge in the performance of his duty under this Act in the same manner as an officer of the county court is to the court. R.S.O. 1960, c. 420, s. 28.

Remuneration of clerk in connection with complaints

26. The clerk is entitled to all reasonable disbursements necessarily incurred by him in the discharge of the duties imposed upon him under this Act and is also entitled to the following compensation:

1. For the name of every person entered in the list of complaints ..... $ .05
2. For every name entered in any necessary copy of the list of complaints ..... .05
3. For every name entered or other correction made by the judge in the voters' list, and in every copy of the revised list ..... .05
4. For every name in the statement of changes made by the judge in the list ..... .05
5. For every necessary notice to any party complaining or complained against ..... .15
6. For every mile necessarily and actually travelled by him in effecting service of a notice of appeal or complaint and in attendance at the hearing of complaints or appeals ..... .08
7. For every day's attendance at the sittings of the court 5.00

R.S.O. 1960, c. 420, s. 29 (1).

Appointment of constable

27.—(1) The judge has power to appoint a proper person to attend as constable at the sitting of the court, and the duties and powers of such person shall be as nearly as may be the same as those of a bailiff at a sitting of a small claims court.

Constable's fees

(2) The constable is entitled to the following compensation:

1. For every day's attendance $4.00
2. For every service of any process or notice, including the receipt and return thereof, and all other duties connected therewith when allowed by the judge, a sum not exceeding 20 cents per mile one way for each mile necessarily and actually travelled to effect such service.

R.S.O. 1960, c. 420, s. 30.

Payment of fees

28. The compensation to which the clerk and constable are respectively entitled shall be certified by the judge and paid to the clerk and constable respectively by the treasurer of the municipality upon the production and deposit with him of the judge's certificate. R.S.O. 1960, c. 420, s. 31, *amended*.

Report by judges as to frauds, etc.

29. If the judge who holds the court is of the opinion that any person has contravened section 43 or 45, or that frauds in respect of the assessment or the list have prevailed extensively in the municipality, he shall report the same to the Minister of Justice and Attorney General with particulars as to names and facts. R.S.O. 1960, c. 420, s. 32.

30. The judge may amend any notice or other proceeding upon such terms as he may think proper. R.S.O. 1960, c. 420, s. 33, *amended*. Amendments

31. If an appellant or complainant dies or abandons his appeal or complaint or is found not to be entitled to be an appellant, the judge may in his discretion allow any other person who might have been an appellant or complainant to intervene and prosecute the appeal or complaint upon such terms as the judge may think proper. R.S.O. 1960, c. 420, s. 34. Substitution of new appellant

32.—(1) If errors are found in the voters' list on the revision thereof in the omission of names, the inaccurate entry of names or the entry of names of persons not entitled to vote and it appears to the judge that the clerk was blamable for any of the errors, the judge may order (Form 17) the clerk to pay all costs occasioned by such errors. Costs occasioned by errors

(2) In all cases not provided for, the costs are in the discretion of the judge. R.S.O. 1960, c. 420, s. 35, *amended*. Discretion of judge

33. The costs to be allowed on any proceeding under this Act shall be according to the lowest scale of costs in an action in a small claims court. R.S.O. 1960, c. 420, s. 36, *amended*. Scale of costs

34. An unsuccessful appellant or complainant is liable to pay the witness fees only, unless in the opinion of the judge the complaint or appeal is frivolous or vexatious or has not been made in good faith, in which case the judge may order the appellant or complainant to pay in addition any other costs allowed by section 33. R.S.O. 1960, c. 420, s. 37. Liability of appellant for costs

35. Payment of costs may be enforced by an execution (Form 18) against goods and chattels, to be issued from the small claims court of the division within which the municipality or part thereof is situate upon filing therein the order of the judge and an affidavit showing the amount at which the costs have been allowed and the non-payment thereof. R.S.O. 1960, c. 420, s. 38. Enforcing payment of costs

36.—(1) In order to facilitate uniformity of decision without the delay and expense of appeals, Reference to Court of Appeal

(*a*) a judge may state a case on any question arising or likely to arise and may transmit it to the Lieutenant Governor in Council who may immediately refer it to the Court of Appeal for the opinion of the court; or

(*b*) the Lieutenant Governor in Council may state a case on any such question to the Court of Appeal for the opinion of the court.

Time and place of argument

(2) Immediately upon receipt of the case, the court shall appoint a time and place for hearing argument, of which written notice shall be given by the Registrar of the Supreme Court posting up a copy of the notice in his office in Osgoode Hall, Toronto, at least ten clear days before the time appointed.

Hearing

(3) At the time appointed the court shall hear the argument by such of the counsel present as the court may think proper to hear, and shall certify to the Lieutenant Governor in Council the opinion of the court thereon, and the opinion shall be published forthwith in *The Ontario Gazette*, and a copy of the opinion shall forthwith be sent to the judge of every county and district court. R.S.O. 1960, c. 420, s. 39.

Opinion at instance of voter

37. The Court of Appeal may also give an opinion on any question at the instance of a voter if the court sees fit, and the proceedings with respect thereto shall be, as nearly as may be, the same as upon a case referred; but the court or a judge thereof may require a deposit of money to cover the costs of hearing the question argued by counsel and may require notice of the proceedings, or any of them, to be given to such person as the court or judge may direct. R.S.O. 1960, c. 420, s. 40.

Liability of persons added to roll on revision R.S.O. 1970, c. 32

38. If a person who is found entitled to be a voter at municipal elections is not assessed or is insufficiently assessed, the judge shall enter the name of such person on the roll together with the other particulars required by *The Assessment Act* to be set opposite the name of the person assessed including the value of the property in respect of which the assessment is made, which shall be determined by the judge, and corresponding corrections shall be made by the clerk in the collector's roll. R.S.O. 1960, c. 420, s. 41.

Lists not vitiated by non-performance of clerk

39. The non-performance by the clerk of any of his duties under this Act within the times appointed shall not affect the validity of any list. R.S.O. 1960, c. 420, s. 42.

Summary application to enforce performance of duties

40.—(1) If the clerk fails to perform any of his duties, the clerk of the peace shall forthwith apply summarily (Form 19) to the judge to enforce the performance thereof.

Application by voter

(2) The application may also be made by any voter.

Proceedings by judge

(3) The judge shall require (Form 20) the clerk and any other person he sees fit to appear before him and produce the assessment roll and any documents relating thereto or to the list, and to submit to examination on oath, and may thereupon make such order and give such directions as he considers proper.

Liability of clerk for costs

(4) The clerk shall pay the costs of the proceedings unless on special grounds the judge otherwise orders, in which case the judge may direct how and by whom the costs are to be paid.

(5) The proceedings and order of the judge do not relieve the clerk from the penalty mentioned in section 41. R.S.O. 1960, c. 420, s. 43. Clerk's liability to penalty

OFFENCES

41. Every clerk who omits, neglects or refuses to perform any of the duties hereinbefore required of him is guilty of an offence and on summary conviction is liable to a fine of $200. R.S.O. 1960, c. 420, s. 44. Penalty for neglect of duties by clerk

42. The wilful alteration of, omission from, incorrect entry in, or falsification of a certified list or copy thereof is an offence, and every clerk of a municipality, clerk of the peace or other person who commits such offence, or wilfully permits it to be committed, is guilty of an offence and on summary conviction is liable to a fine of not less than $500 and not more than $2,000 and in addition may be imprisoned for a term of not more than three months. R.S.O. 1960, c. 420, s. 45. Penalty for wilfully falsifying list

43.—(1) No person shall be a party to any instrument or to any verbal arrangement whereby a colourable qualification is conferred or sought to be conferred upon himself or any other person in order to enable him to become a voter. Colourable transfer of property

(2) Every person who contravenes the provisions of this section, in addition to any other penalty prescribed in that behalf, is guilty of an offence and on summary conviction is liable to a fine of $100. Penalty

(3) Every person who induces or attempts to induce another to commit an offence under this section is guilty of an offence and on summary conviction is liable to a like penalty. R.S.O. 1960, c. 420, s. 46. Procuring commission of offence

44. To prevent the creation of false votes, where a person claims to be assessed or to be entered or named in an assessment roll or claims that another person should be assessed, entered or named in an assessment roll so as to entitle him to be a voter, and the assessor has reason to suspect that the person claiming, or for or in respect of whom the claim is made, ought not to be so assessed, or so entered or named in the roll, the assessor shall make reasonable inquiries before assessing, entering or naming any such person in the assessment roll. R.S.O. 1960, c. 420, s. 47. Inquiries by assessor

45. Every person who wilfully and improperly enters or procures or causes to be entered the name of a person in an assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent to give to a person not entitled thereto either the right or an apparent right to be a voter, or who wilfully enters or procures or causes to be entered a Improper insertion of name in roll

fictitious name in an assessment roll, or who wilfully and improperly omits or procures or causes to be omitted the name of a person from the assessment roll, or assesses or procures or causes the assessment of a person at too low an amount, with intent to deprive a person of his right to be a voter, is guilty of an offence and on summary conviction is liable to a fine of $200. R.S.O. 1960, c. 420, s. 48.

Right to inspect and copy assessment rolls, etc.

R.S.O. 1970, cc. 284, 32

46. A voter and an agent of a voter may, at all reasonable times and under reasonable restrictions, inspect and take copies of or extracts from assessment rolls, notices, complaints, applications and other documents and proceedings necessary or of use for carrying out the provisions of *The Municipal Act*, *The Assessment* Act or this Act, and the clerk for such purposes shall accord all reasonable facilities consistent with the safety of the documents and the rights and interests of all persons concerned, and is in regard to such matters subject to the direction of the judge. R.S.O. 1960, c. 420, s. 49.

Fees for copies of list

47. The fees payable to the clerk of the peace and to the clerk of the municipality for furnishing copies of a list or any part of a list shall be those fixed by the Lieutenant Governor in Council. R.S.O. 1960, c. 420, s. 50.

PART II

Preparation of Ward Lists

Preparation of list where roll returned and revised by wards

48. Immediately after the return by the assessor of the assessment roll for any ward or division of a ward, and without waiting for the revision and correction of the roll by the assessment review court or by the judge, the clerk of every city to which this Part applies shall prepare and cause to be reproduced the voters' list in the manner prescribed by Part I. R.S.O. 1960, c. 420, s. 51, *amended*.

Posting up and distributing lists

49.—(1) Forthwith after the preparation and reproduction of the last of such lists, the clerk shall post up and distribute each of the lists for each ward or division in the manner prescribed by Part I, and forthwith after the clerk has posted up the lists in his office, he shall cause a notice to be inserted once a week for three weeks in such daily newspapers published in the city as may be directed by the judge, calling upon persons who are aware of errors or omissions in the lists, or of changes which have been rendered necessary by reason of the death or removal of any person named therein, or by reason of any person having acquired the necessary qualifications as a voter since the return of the assessment roll for any such ward or division of a ward to give notice of the same, and shall name a time and place at which the judge will hold a court for revising the lists for the whole city.

(2) The time for making complaints as to errors or omissions in the lists shall be within fourteen days after the first publication of the notice. R.S.O. 1960, c. 420, s. 52. Time for making complaints

50. The judge shall so arrange and proceed and so fix the sittings of the court for hearing complaints against or in respect of the lists that the complaints will be heard and determined and the lists finally revised and certified in the manner provided by Part I before the day fixed for the nomination meeting. R.S.O. 1960, c. 420, s. 53. Time for final revision of lists

51. If no complaint respecting any of the lists is received by the clerk within fourteen days after the first publication of the notice, the clerk shall apply forthwith to the judge to certify three copies of each of the lists as being the last revised list of voters for the ward or division and the judge shall certify such three copies and retain one and deliver or send by registered mail one to the clerk of the peace, and one to the clerk of the municipality, to be kept by him among the records of his office. R.S.O. 1960, c. 420, s. 54. Certifying list where no complaint made

52. If any complaint is made as aforesaid with respect to any of the lists within such period, the judge shall proceed as provided by section 18, and sections 20 to 22 apply to the list prepared under this Part. R.S.O. 1960, c. 420, s. 55. Procedure where complaint made

53. Subject to subsection 7 of section 38 of *The Municipal Act*, the lists as so revised, corrected and certified by the judge shall together form from time to time the last revised voters' list for the city within the meaning of this Act and *The Municipal Act*, and the date fixed by section 49 as the last day for making complaints to the judge shall be deemed to be the last day for making complaints to the judge within the meaning of any oath prescribed by that Act and such date shall be inserted in any such oath when the voting is upon a list prepared under this Part. R.S.O. 1960, c. 420, s. 56. Effect of list as completed R.S.O. 1970, c. 284

SCHEDULE

FORM 1

The Voter's Lists Act

Sections 4 (1), 5 (1)

FORM OF VOTERS' LIST

Voters' List, 19..... .....of.....
(*municipality*)

SCHEDULE OF POST OFFICES

1. North Augusta.
2. Maitland.
3. Wright's Corners.
4. Prescott.

POLLING SUBDIVISION No. 1, COMPRISING, ETC.:—(*Giving the Limits*)

Name	Condition	Lot or Street Number	Concession Number or Street Name		Post Office Address	Jurors' Col.	If Sep. School Supporter
Kelly, Patrick....	M	1	Spruce St.	Owner	1		S
Phillips, Frederick	B	3	" "	Tenant	1		
Murray, Alma....	MW	5	" "	M.F.N.C.	1		
Welland, John....	B	7	" "	Owner	1	J	
(or where council has directed alphabetical arrangement)							
Anderson, Henry	M	N W ½ 6	3	Owner	1		S
Andrews, John....	B	W 14 acr. 8	1	F.S.	4		
Archer, Mary.....	MW	2	9	M.F.N.C.	4		S
Burton, Samuel...	W'er	E ½ 17	4	*See Subdiv. No.*	2		
Clark, Edith.....	W	W ½ 17	4	Tenant	5		

POLLING SUBDIVISION No. 2, COMPRISING, ETC.:—(*Giving the Limits*)

(NOTE: *In the Column headed "Condition" insert the initial letter or letters "M" (Married); "M.W." (Married Woman); "S" (Spinster); "W" (Widow); "W'er" (Widower); "B" (Bachelor), according to the circumstances:*

R.S.O. 1960, c. 420, Form 1, *amended.*

FORM 2

The Voters' Lists Act

Section 7 (1)

CERTIFICATE TO BE ENDORSED ON THE VOTERS' LIST

I, A. B., Clerk of the ..... of ....., in the County of ....., certify that the within (*or* above) list is a correct list of all persons appearing by the assessment roll to be entitled to vote at municipal elections in this municipality and I hereby call upon all voters to take immediate proceedings to have any omissions or errors corrected according to law.

Dated this ..... day of ....., 19....

A.B.,
Clerk of .....

R.S.O. 1960, c. 420, Form 2, *amended*.

FORM 3

The Voters' Lists Act

Section 9

CLERK'S NOTICE OF FIRST POSTING OF VOTERS' LIST

Voters' List, 19...., ... of ....., County of .....

Notice is hereby given that I have complied with section 6 of *The Voters' Lists Act*, and that I have posted up at my office at ....., on the ..... day of ....., 19...., the list of all persons entitled to vote in the municipality at municipal elections and that such list remains there for inspection.

And I hereby call upon all voters to take immediate proceedings to have any omissions or errors corrected according to law, the last day for appeal being the ..... day of ....., 19....

Dated this ..... day of ....., 19....

Clerk of .....

R.S.O. 1960, c. 420, Form, 3.

FORM 4

The Voters' Lists Act

Section 10 (5)

AFFIDAVIT IN SUPPORT OF APPLICATION FOR NAME TO BE PLACED ON REVISED LIST

I, ..., of the ..... of ....., in the County of ....., make oath and say:

1. That I am (*or* that ..... is to the best of my personal knowledge) a British subject of the full age of twenty-one years, and not a citizen or a subject of any foreign country.

2. That on the ..... day of ....., 19..... (*Fill in the last day for making complaint to the county judge*), I will have (*or* ..... will have) resided in Canada for the twelve months next preceding that day and that I am (*or* ..... is) a resident of this municipality.

3. That I am (*or* ..... is) entitled to be entered on the voters' list for the ..... of .....

Sworn before me at the .....
of ..... in the County of .....
this ..... day of ....., 19.....

A Commissioner, etc.

R.S.O. 1960, c. 420, Form 4, *amended*.

FORM 5

Sections 11 (1), 13 (1)

The Voters' Lists Act

NOTICE OF COMPLAINT OR APPEAL

Polling Subdivision No.... Ward No..... of .....
(*municipality*)

(*This notice must not apply to the lists for more than one polling subdivision*)

To ....., Clerk of the ..... for the ..... of .....

I (*Insert full name—No initials*), a person entered or entitled to be entered on the voters' list in the above-mentioned municipality in the electoral district of ....., complain that the persons whose names are set forth in List No. 1, are entitled to be on the voters' list for the above-mentioned polling subdivisions, but are omitted from the list; that the persons whose names are set forth in List No. 2 are incorrectly described in the list;

that the persons whose names are set forth in List No. 3 ought not to have been entered on the voters' list for the above-mentioned polling subdivision; and take notice that I intend to apply to the Revising Officer in respect thereof pursuant to the statute in that behalf.

(Signed).....

Dated this.....day of....., 19....

LIST No. 1

(*Showing voters omitted from or not entered on the Voters' List*)

NAMES OF PERSONS	ADDRESS	CONDITION (Here write letters: "M." meaning Married; "B." meaning bachelor; "W'er" meaning Widower; "M.W." meaning Married Woman; "S." meaning Spinster; "W." meaning Widow; "S.F." meaning Soldier's Franchise.)
Insert full name and do not use initials.		

LIST No. 2

(*Showing persons whose names are wrongly stated in Voters' List*)

NAMES OF PERSONS	ADDRESS AS STATED IN LIST	The Errors in Statement upon Voters' List
Insert name as entered on list.		

LIST No. 3

(*Showing persons whose names ought not to be on Voters' List*)

NAMES OF PERSONS	ADDRESS AS STATED IN LIST	Grounds on Which Such Persons' Names Ought Not to be on the Voters' List
Insert name as entered on list.		

The Voters' Lists Act

VOTERS' NOTICE OF COMPLAINT

(*For use by individual complainants*)

Complaint as to Voters' List for Polling Subdivision No. .....
in the ..... of .....
(*municipality*)

I, ..., a person entered or
(*Full name of complainant*)
entitled to be entered on a voters' list in the above-mentioned municipality hereby complain that my name has been omitted from the list for the above polling subdivision, and appeal to have it entered thereon.

I hereby state and declare that

(1) I am a British subject by birth.
(*If naturalized, cross out "birth", write in "naturalization" and give date of your certificate. Naturalized citizens must bring their certificate of naturalization with them when their appeals are to be heard.*)

(2) My occupation is .....
(*In case of women, give occupation and also state whether married, widowed or single.*)

(3) I have resided in Canada since .....

(4) I have been living at .....
(*Give present street address, or lot and concession number.*)
since .....
(*If you have moved within the last five months, give each address at which you have lived in that period and date of moving from each.*)

.....

.....

(5) I am over twenty-one years of age.

And take Notice that I intend to apply to the judge in respect thereof, pursuant to the statute in that behalf.

Dated this ..... day of ....., 19....

(*Complainant sign here*)

R.S.O. 1960, c. 420, Form 5, *amended*.

FORM 6

The Voters' Lists Act

Section 13 (3)

CLERK'S REPORT IN CASE OF APPEALS AND COMPLAINTS TO THE JUDGE

To His Honour the Judge of the County Court of the County of .....

The Clerk of the ..... of ..... reports that the several persons mentioned in column 1 of the subjoined schedule, and no others, have given to him written notice complaining of errors or omissions in the voters' list for the municipality for 19...., on the grounds mentioned in column 2 of the schedule, and that such notices were received respectively at the dates set down in column 3 of the schedule.

Clerk of .....

Schedule

1 NAME OF COMPLAINANT	2 ERRORS OR OMISSIONS COMPLAINED OF	3 DATE WHEN NOTICE OF COMPLAINT RECEIVED BY CLERK

R.S.O. 1960, c. 420, Form 6.

FORM 7

The Voters' Lists Act

Section 13 (3)

JUDGE'S ORDER APPOINTING COURT FOR HEARING COMPLAINTS AND APPEALS

To....., Clerk of the.....of.....

I appoint the.....of....., 19...., at the hour of.....at.....in the said county, for holding a court to hear and determine the several complaints of errors and omissions in the voters' list for the.....of..... for 19.....

I direct that the assessor for the municipality shall attend the sittings of the court, and that the assessment roll and the minutes of the Assessment Review Court for the municipality for 19.... be produced thereat.

Dated this.....day of....., 19....

Judge C. C.

R.S.O. 1960, c. 420, Form 7, *amended*.

FORM 8

The Voters' Lists Act

Section 13 (3)

NOTICE TO BE POSTED BY CLERK IN HIS OFFICE WITH LIST OF COMPLAINTS

Notice is hereby given that a court will be held, pursuant to *The Voters' Lists Act*, at....., on the.....day of ....., 19...., at.....o'clock,.....for hearing all complaints made against the voters' list for the..... of.....for 19...., particulars of which complaints are shown in the subjoined schedule.

Dated this.....day of....., 19....

Clerk of.....

Schedule

NAME OF PARTY COMPLAINING	NAME OF PERSON IN RESPECT TO WHOM APPEAL WAS MADE	GROUNDS OF COMPLAINT ALLEGED

R.S.O. 1960, c. 420, Form 8.

FORM 9

The Voters' Lists Act

Section 13 (3)

CLERK'S NOTICE TO PARTY COMPLAINING

You are hereby notified that a Court for the revision of the voters' list, 19...., for the.....of.....will be held by the Judge of the County Court of the County of..... at.....on the.....day of....., 19...., at.....o'clock at which court all complaints will be heard and determined. A list of complaints is posted up in.....; and take notice that the Judge may proceed to hear and determine the complaints whether the parties complaining appear or not.

By order of His Honour the Judge of the County Court of the County of.....

Dated this.....day of....., 19....

To .....
A person complaining of error in the voters' list.

Clerk of the Municipality, and
.....of the Court

R.S.O. 1960, c. 420, Form 9, *amended.*

FORM 10

The Voters' Lists Act

Section 13 (3)

CLERK'S NOTICE TO PARTY COMPLAINED AGAINST

You are hereby notified that a Court for the revision of the voters' list, 19...., for the.....of.....will be held by the Judge of the County Court of the County of.....,

at....., on the.....day of..... ....., 19...., at.....o'clock, and that..... has complained that your name.....is wrongly omitted (*or* inserted as the case may be) in the voters' list because (*state matter of complaint concisely*). A list of all complaints lodged is posted up in.....; and take notice that the Judge may proceed to hear and determine the complaint whether you appear or not.

By order of His Honour the Judge of the County Court of the County of.....

To.....
Entered on voters' list.

Clerk of the Municipality, and
.....of the Court

R.S.O. 1960, c. 420, Form 10, *amended*.

FORM 11

The Voters' Lists Act

Section 14 (1)

SUBPOENA

SEAL

ONTARIO:
County of.....
TO WIT:

ELIZABETH THE SECOND, by the Grace of God of the United Kingdom, Canada and Her other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To.....Greeting:

We command you, that, all excuses being laid aside, you be and appear in your proper person before our Judge of our County Court of the County of....., at....., on the.....day of..... 19...., at.....o'clock in the.....noon, at a court appointed, and there and then to be held, for hearing complaints of errors in the voters' list for 19....of the.....of.....in the County of....., and for revision of the voters' list, then and there to testify to all and singular those things that you know in a certain matter (*or* matters) of complaint made and now depending before the Judge, under *The Voters' Lists Act*, where one.....is complainant, and which complaint is to be tried at the court. (And *if the witness is required to produce documents*) that you bring with you and produce at such time and place (*Set out the documents to be produced*). Herein fail not.

Witness, His Honour....., Judge of the Court at ....., the.....day of....., in the year of our Lord 19.....

Clerk

R.S.O. 1960, c. 420, Form 11.

FORM 12

The Voters' Lists Act

Section 17 (1)

REPORT OF CLERK WHEN APPLYING FOR CERTIFICATE UNDER SECTION 17

To the Clerk of the Peace of the County of.....

I,....., Clerk of the.....of....., in the County of....., do hereby certify as follows:

That I did, on the.....day of....., 19...., post up, and for a period of.....days next thereafter did keep posted up in a conspicuous place in my office at....., a correct printed copy of the voters' list for the.....of.....for 19...., made in pursuance of *The Voters' Lists Act*, with the certificate required by section 7 of that Act endorsed thereon.

That I did also deliver or transmit by post the required number of similar printed copies of the list, with my certificate endorsed, to each of the persons entitled thereto under section 6 of that Act.

That I did on the.....day of....., 19...., cause to be inserted in the newspaper called the "....." published in.....the notice required by section 9 of that Act.

That no person gave me nor did I receive, within 14 days after I had posted up the list in my office, any written notice of complaint or intention to apply to the Judge in respect of the list.

And to the best of my knowledge and belief, I have complied with all the requirements of that Act, so as to entitle me to apply for certified copies under section 17, and I now apply to you to certify the requisite number of the copies of the list received by you as being the revised list of voters for the municipality of the..... of.....for 19.....

Witness my hand this.....day of....., 19....

Clerk of the.....of.....
.....*P.O.*

R.S.O. 1960, c. 420, Form 12.

FORM 13

The Voters' Lists Act

Section 17 (1)

CERTIFICATE WHERE NO COMPLAINTS

A. B., Clerk of the.....of.....having certified under his hand that no complaints respecting the list of voters for the municipality, for the year 19...., had been received by him within 14 days after the first posting up of the same; and on application of the Clerk:

I,....., Clerk of the Peace of the County of.....in pursuance of *The Voters' Lists Act*, certify that the annexed printed list of voters, being one of the copies received by

me from the clerk under section 6 of that Act, is the last revised list of persons entitled to vote at municipal elections for the year 19.....

Given under my hand at.....,
this.....day of....., 19.....

Clerk of the Peace

R.S.O. 1960, c. 420, Form 13, *amended*.

FORM 14

The Voters' Lists Act

Section 18 (1)

CERTIFICATE OF JUDGE WHEN COMPLAINTS HAVE BEEN MADE

I, ..., Judge of the County Court of the County of ..... pursuant to section 18 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a correct copy of the statement of changes made by me in the list of voters, for the year 19...., received by me from the Clerk of the.....of....., pursuant to that Act.

Dated this.....day of....., 19....

Judge

R.S.O. 1960, c. 420, Form 14.

FORM 15

The Voters' Lists Act

Section 18 (3)

CERTIFICATE OF CLERK OF THE PEACE WHEN COMPLAINTS HAVE BEEN MADE

I, ..., Clerk of the Peace of the County of....., pursuant to section 18 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a correct copy of the statement of changes made by His Honour, Judge..... ....., Judge of the County Court of the County of....., in the list of voters for the year 19...., as certified by the Judge.

Dated this.....day of....., 19.....

Clerk of the Peace

R.S.O. 1960, c. 420, Form 15.

FORM 16

The Voters' Lists Act

Section 18 (4)

CERTIFICATE OF JUDGE WHEN COMPLAINTS HAVE BEEN MADE

I, ..., Judge of the County Court of the County of....., pursuant to subsection 4 of section 18 of *The Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a correct copy of the list of voters for the year

19...., received by me from the clerk of the..... of....., according to my revision and correction thereof, pursuant to that Act.

Dated this.....day of....., 19.....

Judge

R.S.O. 1960, c. 420, Form 16.

FORM 17

The Voters' Lists Act

Section 32 (1)

ORDER FOR PAYMENT OF COSTS

In the matter of the voters' list for the.....of....., 19...., on the complaint or appeal of *A. B.*, complaining of the name of *C. D.* being wrongly inserted in the said list (*or, as the case may be, stating in brief the nature of the complaint*).

On the proceedings taken before me I find and adjudge that the name of *C. D.* was rightly inserted in the list (*or* was wrongly inserted in the list), and order that *A. B.* do pay *C. D.* his costs occasioned by the complaint (*or* and order that *C. D.* shall pay *A. B.* his costs incident to the complaint) (*or* and order that *E. F.*, the clerk of the municipality, do pay *A. B.* his costs incident to the complaint) (*or, as the case may be, stating it in brief*), which I fix at the sum of $.....

Dated this.....day of....., 19.....

Judge

R.S.O. 1960, c. 420, Form 17, *amended*.

FORM 18

The Voters' Lists Act

Section 35

WRIT OF EXECUTION

In the.....Small Claims Court in the County of.....

Whereas on the.....day of....., His Honour, ..., Judge of the County Court of the County of..... made his order that *C. D.* should pay to *A. B.*.....dollars as and for his costs sustained by him on the trial of a complaint against the voters' lists for the.....of.....in the County, for 19...., (*or as the case may be*) made and prosecuted under *The Voters' Lists Act*, which costs have been fixed and allowed at the said sum. You are hereby required to levy of the goods and chattels of *C. D.*, in the County (not exempt from execution) the said money and your lawful fees, so that you may have the same within 30 days from the date hereof and pay the same over to the Clerk of this Court for *A. B.*

Given under the seal of the Court, this.....day of ....., 19.....

Clerk

To

Bailiff of the Court.

R.S.O. 1960, c. 420, Form 18, *amended*.

FORM 19

The Voters' Lists Act

Section 40 (1)

APPLICATION TO JUDGE AGAINST DELINQUENT CLERK

Pursuant to section 40 of *The Voters' Lists Act*, I, *A. B.*, Clerk of the Peace of the County of....., (*or* a person entitled to be entered on the voters' list for the.....of..... ....., for 19....), hereby inform His Honour the Judge of the County Court of the said County, that *C. D.*, Cerk of the..... of....., in the County, has failed to perform the duties required of him as such Clerk by that Act, in this, that he has not made out the list of voters for 19.... for the municipality, within 30 days after the return of the assessment roll thereof (*or* has not delivered or transmitted copies of the voters' list for the municipality, for 19...., to..... and.....and.....or to any of them) (*or, as the case may be, stating in brief the duty not performed*), according to the requirements of the Act; and I apply to you to enforce the performance of the duties aforesaid.

Dated at....., this.....day of....., 19.....

A. B.,
Clerk of the Peace

R.S.O. 1960, c. 420, Form 19.

FORM 20

The Voters' Lists Act

Section 40 (3)

SUMMONS

In the matter of the voters' list for the.....of....., in the County of....., for 19.....

Whereas it appears by the application of *A. B.*, the Clerk of the Peace of the County (*or* a person entitled to be entered on the list), made to me, in pursuance of *The Voters' Lists Act*, that you have failed to perform certain duties required of you by that Act, in this, that you have not made out the list of voters for 19....for the municipality, within 30 days after the return of the assessment roll thereof (*or as the case may be, following the application*); and whereas *A. B.* has applied to me to enforce the performance of the duties aforesaid;

You are hereby required to appear before me at..... in....., on the.....day of....., 19...., at the hour of....., and produce before me the assessment roll for 19.... for the municipality, and any documents in your custody, power or control, relating to the assessment roll, or to the list aforesaid; and submit yourself for examination on oath.

Dated this.....day of....., 19.....

To *C. D.*,
Clerk of the.....of.....

Judge

R.S.O. 1960, c. 240, Form 20.

CHAPTER 486

The Wages Act

Interpretation

1. In this Act, "wages" means wages or salary whether the employment in respect of which the same is payable is by time or by the job or piece or otherwise. R.S.O. 1960, c. 421, s. 1.

Priority of wages or salaries in case of assignments for benefit of creditors

2. Where an assignment of any real or personal property is made for the general benefit of creditors, the assignee shall pay, in priority to the claims of the ordinary or general creditors of the assignor, the wages of all persons in the employment of the assignor at the time of the making of the assignment or within one month before the making thereof, not exceeding three months wages, and such persons rank as ordinary or general creditors for the residue, if any, of their claims. R.S.O. 1960, c. 421, s. 2.

Priority over execution creditors

3. All persons who, at the time of the seizure by the sheriff or who within one month prior thereto, were in the employment of the execution debtor, and who become entitled to share in the distribution of money levied out of the property of a debtor within the meaning of *The Creditors' Relief Act* are entitled to be paid out of such money the wages due to them by the execution debtor, not exceeding three months wages, in priority to the claims of the other creditors of the execution debtor, and are entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O. 1960, c. 421, s. 3.

R.S.O. 1970, c. 97

Priority in case of attachment

4. All persons in the employment of an absconding debtor at the time of a seizure by the sheriff under *The Absconding Debtors Act*, or within one month prior thereto, are entitled to be paid by the sheriff, out of any moneys realized out of the property of the debtor, the wages due to them by the debtor, not exceeding three months wages, in priority to the claims of the other creditors of the debtor, and are entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R.S.O. 1960, c. 421, s. 4.

R.S.O. 1970, c. 2

Priority in administration of estates

5. In the administration of the estate of any person dying on or after the 13th day of April, 1897, any person in the employment of the deceased at the time of his death, or within one month prior thereto, who is entitled to share in the distribution of the estate, is entitled to his wages, not exceeding three months wages, in priority to the claims of the ordinary or general creditors of the deceased, and such person is entitled to rank as an ordinary or general creditor of the deceased for the residue, if any, of his claim. R.S.O. 1960, c. 421, s. 5.

When wages to be payable on distribution of estate

6.—(1) Wages in respect of which priority is conferred by this Act become due and are payable by the assignee, liquidator, sheriff, executor, administrator or other person charged with the duty of winding up or distributing the estate within one month from the time the estate was received by him or placed under his control, unless it appears to him that the estate is not of sufficient value to pay the claims or charges thereon having by law priority over the claims for wages and the ordinary expenses and disbursements of winding up and distributing the estate.

Ordinary expenses, meaning

(2) Ordinary expenses do not include the cost of litigation or other unusual expenses concerning the estate or any part thereof unless the same were incurred with the consent in writing of the person entitled to the wages or are afterwards adopted or ratified by him in writing.

Protection of assignee, etc., paying claims for wages in good faith

(3) Any such assignee, liquidator, sheriff, executor, administrator or other person may forthwith, upon such estate coming to his hands, pay the prior claims for wages without being chargeable in case it in the end appears that the estate was insufficient to have justified such payment, if he acted in good faith and had reasonable grounds to believe that the estate would prove sufficient.

Joinder of claims

(4) Any number of claimants in respect of such prior claims for wages upon the same estate may join in any action, suit or other proceeding for the enforcement of their claims. R.S.O. 1960, c. 421, s. 6.

Extent of exemption from seizure or attachment

7.—(1) Seventy per cent of any debt due or accruing due to any mechanic, workman, labourer, servant, clerk or employee for or in respect of his wages is exempt from seizure or attachment, provided that if a creditor of any such mechanic, workman, labourer, servant, clerk or employee, who has initiated proceedings by way of seizure or attachment of the wages of any such mechanic, workman, labourer, servant, clerk or employee, desires to contend that having regard to the nature of the debt and the circumstances of the debtor, it is unreasonable that as much as 70 per cent of such debtor's wages should be exempt, the judge may in any particular case, upon a hearing of the matter, reduce such percentage of exemption, and provided further that this section applies only where the amount of such exemption exceeds the sum of $2.50 for each working day represented by the wages seized or attached and that a portion of such debtor's wages not exceeding the sum of $2.50 for each working day represented by the wages seized or attached is in all cases exempt from seizure or attachment.

When no exemption

(2) Nothing in this section applies to any case where the debt to the creditor has been contracted for board or lodging, or where the debtor is an unmarried person and the judge, upon inquiry, finds that he has no one dependent upon him for support.

(3) If the debtor desires to contend that in the circumstances of any particular case, having regard to the size of his family, the wages he is earning and any other matter or thing that the judge may consider proper to take into account, the exemption allowed by this section should be increased, the judge has power to increase and to make an order providing for an increase of exemption that he may consider just and reasonable under all the circumstances. Increase of exemption

(4) Where the creditor intends to apply for a reduction in the amount of the exemption, he shall give notice of the intention to the employer at the time of the service of the notice or other process garnishing or attaching the wages, and if he fails to give the notice, the employer may pay into court so much only of the wages of the debtor as would not be exempt under subsection 1 and may pay the balance of the wages to the debtor. Notice of application for reduction of exemption

(5) Subject to subsection 4, the debtor or creditor without waiting for the regular sittings of the court may apply to the judge upon at least five days notice in writing to the other party or his solicitor for an order fixing the amount of the debtor's exemption, and upon the making of the order, if the employer has paid the whole or any part of the wages into court and the amount so paid in equals or exceeds the amount allowed by way of exemption, such sum shall be forthwith paid out to the debtor, and in case the amount paid in is less than the amount so allowed, the whole amount paid in shall be paid out to the debtor. R.S.O. 1960, c. 421, s. 7 (1-5). Application to judge to fix exemption

(6) Subject to subsection 7, an assignment of wages or any portion thereof to secure payment of a debt is invalid. Wage assignments

(7) A debtor may assign to a credit union to which *The Credit Unions Act* applies such portion of his wages as does not exceed the portion thereof that is liable to attachment or seizure under this section. 1968, c. 142, s. 1. Idem, credit unions R.S.O. 1970, c. 96

8.—(1) Where a garnishment order has been made against the debtor, he may apply to the judge for an order for the release of the garnishment and for the payment of the judgment by instalments and, if the judge considers it proper in all the circumstances of the case, he may make the order, fixing therein the amounts and times of payment, and, so long as the debtor is not in default under the order, no further garnishment of the debtor's wages shall be had in respect of the judgment debt. Release of garnishment on terms

(2) An order under subsection 1 may be made *ex parte*, but the judge may vary it at any time upon the application of the debtor or creditor with at least two days notice in writing to the other party. Idem

Copy to judgment creditor

(3) Forthwith after an order is made under subsection 1, a copy thereof shall be sent by prepaid mail by the clerk of the court to the judgment creditor or his agent. R.S.O. 1960, c. 421, s. 8.

Attachment of wages only after judgment

9. Proceedings to attach any debt due or accruing due to any mechanic, workman, servant, clerk or employee for or in respect of his wages shall be taken only where the claim of the creditor against the debtor is upon a judgment. R.S.O. 1960, c. 421, s. 9.

CHAPTER 487

The Warble Fly Control Act

Interpretation

1. In this Act,

(*a*) "cattle owner" means any person owning or keeping one or more head of cattle, and includes any person in charge of premises where cattle are kept;

(*b*) "Commissioner" means the Live Stock Commissioner;

(*c*) "inspector" means an inspector appointed under this Act and includes the chief inspector;

(*d*) "Minister" means the Minister of Agriculture and Food;

(*e*) "municipality" means a city, town, village or township;

(*f*) "regulations" means the regulations made under this Act;

(*g*) "treated for warble fly" means treated by a method prescribed in the regulations;

(*h*) "warble fly" means the insect known as *Hypoderma Bovis* or *Hypoderma Lineatum*. R.S.O. 1960, c. 422, s. 1; 1970, c. 16, s. 1.

Petition and by-law

2.—(1) Upon receipt of a petition that bears the signatures of more than two-thirds of the cattle owners in the municipality, the council thereof at its next meeting shall pass a by-law requiring all the cattle within the municipality to be treated for warble fly.

Repeal of by-law

(2) Where a by-law passed under this Act has been in force for a period of at least three consecutive years and the council receives a petition that bears the signatures of at least one-third of the cattle owners in the municipality requesting that the by-law be repealed, the council at its next meeting may repeal the by-law.

Copy to be sent to Commissioner

(3) The clerk of the municipality shall send a certified copy of any by-law passed under subsection 1 or 2 to the Commissioner within seven days after it is passed. R.S.O. 1960, c. 422, s. 2.

Appointment of inspectors; purchase of supplies

3.—(1) Where the council of a municipality has passed a by-law under this Act, the council shall appoint before the 1st day of April in each year one or more inspectors to enforce the by-law, and for the treatment of cattle for warble fly, may purchase in such amounts as may be required such ingredients as may be designated in the regulations, and may purchase or otherwise

acquire such equipment as it considers necessary. R.S.O. 1960, c. 422, s. 3 (1); 1970, c. 16, s. 2.

Departmental inspectors

(2) The Minister may appoint a chief inspector and one or more inspectors whose duties shall be to carry out the provisions of this Act and the regulations.

Evidence of appointment

(3) The production by an inspector of a certificate of his appointment purporting to be signed by the clerk of the municipality or by the Minister, as the case may be, shall be accepted as *prima facie* evidence of his appointment under this Act.

Power to enter premises

(4) In the performance of his duties under this Act an inspector may at any time between sunrise and sunset enter any land or building other than a dwelling house and may inspect all cattle on the premises for warble fly grubs. R.S.O. 1960, c. 422, s. 3 (2-4).

Duty of cattle owners

4.—(1) Where the council of a municipality has passed a by-law under this Act, every cattle owner in the municipality shall treat or make available his cattle for treatment for warble fly in accordance with the regulations, and make available for inspection any cattle on his premises. R.S.O. 1960, c. 422, s. 4 (1).

Power of inspectors to treat for warble fly

(2) Where an inspector, during such periods in any year as may be prescribed in the regulations, finds upon inspection that a cattle owner has not treated his cattle for warble fly, or that treatment for warble fly by a cattle owner has not been effective in destroying warble fly grubs, the inspector may treat the cattle or cause the cattle to be treated for warble fly. R.S.O. 1960, c. 422, s. 4 (2); 1970, c. 16, s. 3 (1).

Cost of treatment for warble fly

(3) Where an inspector treats cattle or causes cattle to be treated for warble fly, the cattle owner is liable for the cost of the treatment, and such cost is payable on demand and is recoverable in any court of competent jurisdiction. 1970, c. 16, s. 3 (2).

Payment to inspector

(4) The council of a municipality or the Minister, as the case may be, may authorize an inspector to accept payment from a cattle owner for the cost of treatment of his cattle and to give a receipt therefor. R.S.O. 1960, c. 422, s. 4 (4).

Bringing cattle into municipality

5. Where a cattle owner brings or receives cattle into a municipality during the period within which treatments for warble fly are required in any year, production of a certificate of treatment of the cattle for warble fly issued by any inspector shall be accepted as evidence of treatment. R.S.O. 1960, c. 422, s. 5.

Offences

6. Every cattle owner who fails to comply with this Act or the regulations or any by-law passed under this Act, and every person who hinders or obstructs an inspector in the course of his duties or refuses to permit an inspector to carry out his duties under this

Act or the regulations or any by-law passed under this Act, is guilty of an offence and on summary conviction is liable to a fine of not less than $25 and not more than $50 for a first offence, and to a fine of not less than $50 and not more than $200 or to imprisonment for a term of not more than thirty days for any subsequent offence. R.S.O. 1960, c. 422, s. 6.

7. The Lieutenant Governor in Council may make regulations, Regulations

(*a*) prescribing methods of treatment for warble fly;

(*b*) designating the ingredients to be used and the strength thereof and prescribing the number of treatments that shall be given in a year and the times at which the treatments shall be given;

(*c*) prescribing periods of the year for the purposes of subsection 2 of section 4;

(*d*) designating classes of cattle and exempting such classes from the provisions of the by-laws passed under this Act or a predecessor of this Act;

(*e*) prescribing the methods by which cattle shall be made available for inspection and treatment for warble fly;

(*f*) providing for the instruction of inspectors and prescribing their duties;

(*g*) prescribing the form of inspectors' certificates;

(*h*) providing for the making of grants by the Minister out of the moneys appropriated therefor by the Legislature so as to reimburse any municipality to such extent as is designated for any expense it has been put to under this Act;

(*i*) respecting the control of warble fly in unorganized territory and providing for the payment of the cost thereof;

(*j*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 422, s. 7; 1970, c. 16, s. 4.

CHAPTER 488

The Warehousemen's Lien Act

Interpretation

1. In this Act,

(*a*) "charges" has the meaning assigned to it in section 2;

(*b*) "goods" includes all chattels personal other than things in action and money;

(*c*) "warehouseman" means a person who receives goods for storage for reward. R.S.O. 1960, c. 423, s. 1.

Lien

2.—(1) Subject to section 3, every warehouseman has a lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his authority.

Amount of lien

(2) The lien is for the amount of the warehouseman's charges, that is to say,

(*a*) all lawful charges for storage and preservation of the goods; and

(*b*) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooperage, and other expenses in relation to the goods; and

(*c*) all reasonable charges for any notice required to be given under this Act and *The Warehouse Receipts Act* and for notice and advertisement of sale, and for sale of the goods where default is made in satisfying the warehouseman's lien. R.S.O. 1960, c. 423, s. 2. R.S.O. 1970, c. 489

Notice of lien when goods in hands of agent, etc.

3.—(1) Where the goods on which a lien exists were deposited not by the owner or by his authority, but by a person entrusted by the owner or by his authority with the possession of the goods, the warehouseman, within two months after the date of the deposit, shall give notice of the lien,

(*a*) to the owner of the goods, including the person in whom the right of property therein is vested where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the goods is filed under *The Conditional Sales Act* at the date of deposit; and R.S.O. 1970, c. 76

(*b*) to the grantee of the goods under any bill of sale or chattel mortgage registered under *The Bills of Sale and Chattel Mortgages Act* at that date. R.S.O. 1970, c. 45

Form of notice

(2) The notice shall be in writing and shall contain,

(*a*) a brief description of the goods; and

(*b*) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman, and the name of the person by whom they were deposited; and

(*c*) a statement that a lien is claimed by the warehouseman in respect of the goods under this Act.

Failure to give notice

(3) Where the warehouseman fails to give the notice required by this section, his lien, as against the person to whom he has failed to give notice, is void as from the expiration of the period of two months from the date of the deposit of the goods. R.S.O. 1960, c. 423, s. 3.

Sale by public auction

4.—(1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of warehouseman's charges, a warehouseman may sell by public auction, in the manner provided in this section, any goods upon which he has a lien for charges that have become due.

Notice of sale

(2) The warehouseman shall give written notice of his intention to sell,

(*a*) to the person liable as debtor for the charges for which the lien exists; and

(*b*) to the owner of the goods, including the person in whom the right of property therein is vested, where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the goods is filed under *The Conditional Sales Act* at the date of deposit of the goods; and

R.S.O. 1970, c. 76

(*c*) to the grantee of the goods under any bill of sale or chattel mortgage registered under *The Bills of Sale and Chattel Mortgages Act* at that date; and

(*d*) to any other person known by the warehouseman to have or claim an interest in the goods.

Form of notice

(3) The notice shall contain,

(*a*) a brief description of the goods; and

(*b*) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman, and the name of the person by whom they were deposited; and

(*c*) an itemized statement of the warehouseman's charges showing the sum due at the time of the notice; and

(*d*) a demand that the amount of the charges as stated in the notice and such further charges as may accrue shall be

paid on or before a day mentioned, not less than twenty-one days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination according to the due course of mail if it is sent by mail; and

(*e*) a statement that unless the charges are paid within the time mentioned the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.

Advertisement of sale

(4) Where the charges are not paid on or before the day mentioned in the notice, an advertisement of the sale, describing the goods to be sold and stating the name of the person liable as debtor for the charges for which the lien exists and the time and place of the sale, shall be published at least once a week for two consecutive weeks in a newspaper published in Ontario and circulating in the locality where the sale is to be held, and the sale shall be held not less than fourteen days from the date of the first publication of the advertisement. R.S.O. 1960, c. 423, s. 4.

Substantial compliance with requirements

5. Where a notice of lien under section 3 or a notice of intention to sell under section 4 has been given, but such provisions have not been strictly complied with, if the court or a judge before whom any question respecitng the notice is tried or inquired into considers that such provisions have been substantially complied with, or that it would be inequitable for the lien or sale to be void by reason of such non-compliance, no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale. R.S.O. 1960, c. 423, s. 5, *amended*.

Application of proceeds of sale

6.—(1) The warehouseman shall satisfy his lien from the proceeds of the sale and shall pay over the surplus, if any, to the person entitled thereto, and the warehouseman shall when paying over the surplus deliver to the person to whom he pays it a statement of account showing how the amount has been computed.

When surplus to be paid into court

(2) If the surplus is not demanded by the person entitled thereto within ten days after the sale, or if there are different claimants or the rights thereto are uncertain, the warehouseman shall pay the surplus into the Supreme Court upon the order of a judge, and the order may be made *ex parte* upon such terms and conditions as to costs and otherwise as the judge may direct, and may provide to what fund or name the amount shall be credited.

Statement of account to be filed

(3) The warehouseman at the time of paying the amount into court shall file in court a copy of the statement of account showing how the amount has been computed. R.S.O. 1960, c. 423, s. 6.

Discharge of lien

7.—(1) At any time before the goods are sold any person claiming an interest or right of possession in the goods may pay the warehouseman the amount necessary to satisfy his lien, including the expenses incurred in serving the notices, publishing the advertisement and preparing for the sale up to the time of the payment.

Disposition of goods

(2) The warehouseman shall deliver the goods to the person making the payment if he is the person entitled to the possession of the goods on payment of the warehouseman's charges thereon, otherwise the warehouseman shall retain possession of the goods according to the terms of the contract of deposit. R.S.O. 1960, c. 423, s. 7.

Notices, how given

8. Where by this Act any notice in writing is required to be given, the notice shall be given by delivering it to the person to whom it is to be given, or by sending it by registered mail to his latest known address. R.S.O. 1960, c. 423, s. 8.

Contract not affected

9. Nothing in this Act shall be deemed to affect the terms of the contract between the owner or bailor and the warehouseman. R.S.O. 1960, c. 423, s. 9.

CHAPTER 489

The Warehouse Receipts Act

Interpretation

1. In this Act,

(*a*) "action" includes counterclaim and set-off;

(*b*) "fungible goods" means goods of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit;

(*c*) "goods" includes all chattels personal other than things in action and money;

(*d*) "holder", as applied to a negotiable receipt, means a person who has possession of the receipt and a right of property therein, and, as applied to a non-negotiable receipt, means a person named therein as the person to whom the goods are to be delivered or his transferee;

(*e*) "negotiable receipt" means a receipt in which it is stated that the goods therein specified will be delivered to bearer or to the order of a named person;

(*f*) "non-negotiable receipt" means a receipt in which it is stated that the goods therein specified will be delivered to the holder thereof;

(*g*) "purchaser" includes a mortgagee and pledgee;

(*h*) "receipt" means a warehouse receipt;

(*i*) "to purchase" includes to take as mortgagee or as pledgee;

(*j*) "warehouse receipt" means an acknowledgment in writing by a warehouseman of the receipt for storage of goods not his own;

(*k*) "warehouseman" means a person who receives goods for storage for reward. R.S.O. 1960, c. 424, s. 1.

Form of receipts

2.—(1) A receipt shall contain,

(*a*) the address of the warehouse or other place where the goods are stored;

(*b*) the name of the person by whom or on whose behalf the goods are deposited;

(*c*) the date of issue of the receipt;

(*d*) a statement either,

(i) that the goods received will be delivered to the holder thereof, or

(ii) that the goods will be delivered to bearer or to the order of a named person;

(*e*) the rate of storage charges;

(*f*) a description of the goods or of the packages containing them;

(*g*) the signature of the warehouseman or his authorized agent; and

(*h*) a statement of the amount of any advance made and of any liability incurred for which the warehouseman claims a lien.

Omission of particulars

(2) Where a warehouseman omits from a negotiable receipt any of the particulars set forth in subsection 1, he is liable for damage caused by the omission.

Idem

(3) No receipt shall be reason of the omission of any of the particulars set forth in subsection 1 be deemed not to be a warehouse receipt.

Insertions

(4) A warehouseman may insert in a receipt issued by him any other term or condition that,

(*a*) is not contrary to any provision of this Act; and

(*b*) does not impair obligation to exercise such care and diligence in regard to the goods as a careful and vigilant owner of similar goods would exercise in the custody of them in similar circumstances.

Contract constituted

(5) Subject to this Act, a warehouse receipt issued by a warehouseman, when delivered to the owner or bailor of the goods or mailed to him at his latest address known to the warehouseman, constitutes the contract between the owner or bailor and the warehouseman; provided that the owner or bailor may within twenty days after such delivery or mailing notify the warehouseman in writing that he does not accept such contract and thereupon he shall remove the goods deposited subject to the warehouseman's lien for charges and if such notice is not given then the warehouse receipt so delivered or mailed constitutes the contract. R.S.O. 1960, c. 424, s. 2.

Negotiable receipts

3. Words in a negotiable receipt limiting its negotiability are void. R.S.O. 1960, c. 424, s. 3.

Marking of duplicate receipts

4.—(1) No more than one receipt shall be issued in respect of the same goods except in case of a lost or destroyed receipt, in which case the new receipt, if one is given, shall bear the same date as the original, and shall be plainly marked on its face "duplicate".

Liability when not so marked

(2) A warehouseman is liable for all damage caused by his failure to observe the provisions of subsection 1 to any person who

purchases the subsequent receipt for valuable consideration, believing it to be an original, even though the purchase is after the delivery of the goods by the warehouseman to the holder of the original receipt.

Effect of duplicate receipts

(3) A receipt upon the face of which the word "duplicate" is plainly marked is a representation and warrantly by the warehouseman that it is an accurate copy of a receipt properly issued and uncancelled at the date of the issue of the duplicate. R.S.O. 1960, c. 424, s. 4.

Marking of non-negotiable receipts

5.—(1) A warehouseman who issues a non-negotiable receipt shall cause to be plainly marked upon its face the words "non-negotiable" or "not negotiable".

Failure to mark

(2) Where a warehouseman fails to comply with subsection 1, a holder of the receipt who purchases it for valuable consideration believing it to be negotiable may, at his option, treat the receipt as vesting in him all rights attaching to a negotiable receipt and imposing upon the warehouseman the same liabilities he would have incurred had the receipt been negotiable, and the warehouseman is liable accordingly. R.S.O. 1960, c. 424, s. 5.

Duty to deliver

6.—(1) A warehouseman in the absence of lawful excuse shall deliver the goods referred to therein,

(*a*) in the case of a negotiable receipt, to the bearer thereof upon demand made by the bearer and upon the bearer,

(i) satisfying the warehouseman's lien,

(ii) surrendering the receipt with such endorsements as are necessary for the negotiation of the receipt, and

(iii) acknowledging in writing the delivery of the goods; and

(*b*) in the case of a non-negotiable receipt, to the holder thereof upon the holder,

(i) satisfying the warehouseman's lien, and

(ii) acknowledging in writing the delivery of the goods.

Failure to deliver

(2) Where a warehouseman refuses or fails to deliver the goods in compliance with subsection 1, the burden is upon the warehouseman to establish the existence of a lawful excuse for his refusal or failure. R.S.O. 1960, c. 424, s. 6.

Delivery on presentation of a negotiable receipt

7. Where a person is in possession of a negotiable receipt that has been duly endorsed to him or endorsed in blank, or by the terms of which the goods are deliverable to him or his order or to bearer, if delivery is made in good faith and without notice of any defect in the title of that person, the warehouseman is justified in delivering the goods to that person. R.S.O. 1960, c. 424, s. 7.

Negotiable receipts must be cancelled on delivery of goods

8.—(1) Except as provided in section 18, where a warehouseman delivers goods for which he has issued a negotiable receipt and fails to take up and cancel the receipt, he is liable, for failure to deliver the goods, to anyone who purchases the receipt in good faith and for valuable consideration, whether he acquired title to the receipt before or after delivery of the goods by the warehouseman.

Negotiable receipts to be marked on delivery of part of goods

(2) Except as provided in section 18, where a warehouseman delivers part of the goods for which he has issued a negotiable receipt and fails either to take up and cancel the receipt, or to place plainly upon it a statement of what goods or packages have been delivered, he is liable, for failure to deliver all the goods specified in the receipt, to anyone who purchases the receipt in good faith and for valuable consideration, whether the purchaser acquired title to the receipt before or after the delivery of any portion of the goods. R.S.O. 1960, c. 424, s. 8.

Lost or destroyed receipts

9. Where a negotiable receipt has been lost or destroyed, a judge of the Supreme Court, upon application after notice to the warehouseman by the person lawfully entitled to possession of the goods, may upon satisfactory proof of such loss or destruction order the delivery of the goods upon the giving of a bond with sufficient sureties to be approved in accordance with the practice of the court to indemnify the warehouseman against any liability, cost or expense he may be under or be put to by reason of the original receipt remaining outstanding, and the warehouseman is entitled to his costs of the application. R.S.O. 1960, c. 424, s. 9.

Warehouseman has reasonable time to determine validity of claims

10. Where a warehouseman has information that a person other than the holder of a receipt claims to be the owner of or entitled to the goods, he may refuse to deliver the goods until he has had a reasonable time, not exceeding ten days, to ascertain the validity of the adverse claim or to commence interpleader proceedings. R.S.O. 1960, c. 424, s. 10.

Conclusiveness of negotiable receipt

11. A negotiable receipt is, in the hands of a holder who has purchased it for valuable consideration, conclusive evidence of the receipt by the warehouseman of the goods therein described as against the warehouseman and any person signing the same on his behalf, notwithstanding that the goods or some portion thereof may not have been so received unless the holder of the negotiable receipt has actual notice at the time of receiving the same, that the goods have not in fact been received. R.S.O. 1960, c. 424, s. 11.

Description of goods in receipt

12. Where goods are described in a receipt merely by,

(*a*) a statement of certain marks or labels on the goods or on the packages containing them;

(*b*) a statement that the goods are said by the depositor to be goods of a certain kind;

(*c*) a statement that the packages containing the goods are said by the depositor to contain goods of a certain kind; or

(*d*) a statement of import similar to that of clause *a*, *b* or *c*,

the statement does not impose any liability on the warehouseman in respect of the nature, kind or quality of the goods, but shall be deemed to be a representation by the warehouseman either that the marks or labels were in fact on the goods or packages, or that the goods were in fact described by the depositor as stated, or that the packages containing the goods were in fact described by the depositor as containing goods of a certain kind, as the case may be. R.S.O. 1960, c. 424, s. 12.

Liability for care of goods

13. A warehouseman is liable for loss of or injury to goods caused by his failure to exercise such care and diligence in regard to them as a careful and vigilant owner of similar goods would exercise in the custody of them in similar circumstances. R.S.O. 1960, c. 424, s. 13.

Co-mingled goods and warehouseman's liability therefor

14. Where authorized by agreement or by custom, a warehouseman may mingle fungible goods with other goods of the same kind and grade, and in that case the holders of the receipts for the mingled goods own the entire mass in common, and each holder is entitled to such proportion thereof as the quantity shown by his receipt to have been deposited bears to the whole. R.S.O. 1960, c. 424, s. 14.

Attachment or levy upon goods for which a negotiable receipt has been issued

15. Where goods are delivered to a warehouseman by the owner or person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner and a negotiable receipt is issued for them, they cannot thereafter while in the possession of the warehouseman, be levied under an execution, unless the receipt is first surrendered to the warehouseman. R.S.O. 1960, c. 424, s. 15.

Negotiable receipt must state charges for which lien is claimed

16. Where a negotiable receipt is issued for goods, the warehouseman has no lien on the goods, except for charges for storage of those goods subsequent to the date of the receipt, unless the receipt expressly enumerates other charges for which a lien is claimed. R.S.O. 1960, c. 424, s. 16.

Perishable and hazardous goods

17.—(1) Where goods are of a perishable nature or by keeping will deteriorate greatly in value or injure other property, the warehouseman may give such notice as is reasonable and possible under the circumstances to the holder of the receipt for the goods, if the name and address of the holder is known to the warehouseman, or if not known to him, then to the depositor, requiring him

to satisfy the lien upon the goods and to remove them from the warehouse, and on the failure of such person to satisfy the lien and remove the goods within the time specified in the notice, the warehouseman may sell the goods at public or private sale without advertising.

Giving of notice

(2) The notice referred to in subsection 1 may be given by sending it by registered mail addressed to the person to whom it is to be given at the person's latest known place of address and the notice shall be deemed to be given on the day following the mailing.

Disposal of goods

(3) If the warehouseman after a reasonable effort is unable to sell the goods, he may dispose of them in any manner he may think fit, and does not incur liability by reason thereof.

Proceeds of sale

(4) The warehouseman shall satisfy his lien from the proceeds of any sale made pursuant to this section, and shall hold the balance in trust for the holder of the receipt. R.S.O. 1960, c. 424, s. 17.

Effect of sale

18. Where goods have been lawfully sold to satisfy a warehouseman's lien or have been lawfully sold or disposed of pursuant to section 17, the warehouseman is not liable for failure to deliver the goods to the holder of the receipt. R.S.O. 1960, c. 424, s. 18.

Negotiation of negotiable receipts

19.—(1) A negotiable receipt may be negotiated by delivery,

(*a*) where by the terms of the receipt the warehouseman undertakes to deliver the goods to the bearer; or

(*b*) where by the terms of the receipt the warehouseman undertakes to deliver the goods to the order of a named person and that person or a subsequent endorsee has endorsed it in blank or to bearer.

Idem

(2) Where by the terms of a negotiable receipt the goods are deliverable to bearer, or where a negotiable receipt has been endorsed in blank or to bearer, the receipt may be negotiated by the bearer endorsing it to a named person, and in that case the receipt shall thereafter be negotiated by the endorsement of the endorsee or a subsequent endorsee or by delivery if it is again endorsed in blank or to bearer.

Idem

(3) Where by the terms of a negotiable receipt the goods are deliverable to the order of a named person, the receipt may be negotiated by the endorsement of that person.

Idem

(4) An endorsement pursuant to subsection 3 may be in blank, to bearer or to a named person, and if the endorsement is to a named person, the receipt may be again negotiated by endorsement in blank, to bearer or to another named person, and subsequent negotiation may be made in like manner. R.S.O. 1960, c. 424, s. 19.

20. The goods covered by a non-negotiable receipt may be transferred by the holder by delivery to a purchaser or donee of the goods of a transfer in writing executed by the holder, but the transfer does not affect or bind the warehouseman until he is notified in writing thereof. R.S.O. 1960, c. 424, s. 20. Transfer of receipts

21.—(1) A person to whom the goods covered by a non-negotiable receipt are transferred acquires, as against the transferor, Rights of person to whom a receipt has been transferred

(*a*) the title to the goods; and

(*b*) the right to deposit with the warehouseman the transfer or duplicate thereof or to give notice in writing to the warehouseman of the transfer.

(2) The transferee acquires the benefit of the obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt upon, Idem

(*a*) deposit of the transfer of the goods; or

(*b*) giving notice in writing of the transfer and upon the warehouseman having a reasonable opportunity of verifying the transfer. R.S.O. 1960, c. 424, s. 21.

22. A person to whom a negotiable receipt is duly negotiated acquires, Rights of person to whom a receipt has been negotiated

(*a*) such title to the goods as the person negotiating the receipt to him had or had ability to transfer to a purchaser in good faith for valuable consideration and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of receipt had or had ability to transfer to a purchaser in good faith for valuable consideration; and

(*b*) the benefit of the obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouseman had contracted directly with him. R.S.O. 1960, c. 424, s. 22.

23. Where a negotiable receipt is transferred for valuable consideration by delivery and the endorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to endorse the receipt, unless a contrary intention appears and the negotiation shall take effect as of the time when the endorsement is made. R.S.O. 1960, c. 424, s. 23. Transfer of negotiable receipt without endorsement

24. A person who for valuable consideration negotiates or transfers a receipt by endorsement or delivery, including one who assigns for valuable consideration a claim secured by a receipt, unless a contrary intention appears, warrants, Warranties on sale of receipt

(*a*) that the receipt is genuine;

(*b*) that he has a legal right to negotiate or transfer it;

(*c*) that he has no knowledge of any fact that would impair the validity of the receipt; and

(*d*) that he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented thereby. R.S.O. 1960, c. 424, s. 24.

Endorser not a guarantor

25. The endorsement of a receipt does not make the endorser liable for any failure on the part of the warehouseman or previous endorsers of the receipt to fulfil their respective obligations. R.S.O. 1960, c. 424, s. 25.

When negotiation not impaired by fraud, mistake or duress

26. The validity of the negotiation of a receipt is not impaired by the fact that the negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the receipt was induced by fraud, mistake or duress to entrust the possession or custody of the receipt to such person, if the person to whom the receipt was negotiated, or a person to whom the receipt was subsequently negotiated, paid value therefor without notice of the breach of duty, or fraud, mistake or duress. R.S.O. 1960, c. 424, s. 26.

Subsequent negotiation

27. Where a person having sold, mortgaged or pledged goods that are in a warehouse and for which a negotiable receipt has been issued, or having sold, mortgaged or pledged a negotiable receipt representing goods, continues in possession of the negotiable receipt, the subsequent negotiation thereof by that person under any sale or other disposition thereof to any person receiving it in good faith, for valuable consideration and without notice of the previous sale, mortgage or pledge, has the same effect as if a previous purchaser of the goods or receipt had expressly authorized the subsequent negotiation. R.S.O. 1960, c. 424, s. 27.

Negotiation defeats vendor's lien

28. Where a negotiable receipt has been issued for goods, no seller's lien or right of stoppage in transitu defeats the rights of a purchaser for value in good faith to whom the receipt has been negotiated, whether the negotiation is prior or subsequent to the notification to the warehouseman who issued the receipt of the seller's claim to a lien or right of stoppage in transitu and the warehouseman shall not deliver the goods to an unpaid seller unless the receipt is first surrendered for cancellation. R.S.O. 1960, c. 424, s. 28.

Where Act not to apply R.S.C. 1952, c. 25

29. Nothing herein shall be deemed to include or apply to the manager or operator of a grain elevator as "Manager" and "Operator" are defined by the *Canada Grain Act* or any railway or express company within the jurisdiction of the Parliament of Canada. R.S.O. 1960, c. 424, s. 29.

Application to Act

30. This Act does not apply to receipts made and delivered before the 1st day of June, 1946. R.S.O. 1960, c. 424, s. 30.

Application to storage of furs, etc.

31. This Act does not apply to the storage of furs, garments and home furnishings, other than furniture, that are ordinarily used by the person placing them in storage or a member of his family or household. R.S.O. 1960, c. 424, s. 31.

CHAPTER 490

The War Veterans Burial Act

Liability of municipality for burial of veterans

1. In the event of the death of any person who was an indigent person and who was a member of Her Majesty's naval, military or air forces in active service during any war and his burial was provided by and paid for from the Last Post Fund, the municipality in which he resided at the time of his death shall pay the expenses of such burial, but not exceeding the sum of $15, to the Fund upon proof of such burial and demand for payment made by a properly accredited officer of the Fund. R.S.O. 1960, c. 425, s. 1.

In case of workman, compensation payable to Last Post Fund

R.S.O. 1970, c. 505

2. In the event of the death of any workman who was a member of Her Majesty's naval, military or air forces in active service during any war and the burial was provided by and paid for from the Last Post Fund, the necessary expenses of the burial payable under clause *a* of subsection 1 of section 36 of *The Workmen's Compensation Act*, not exceeding $100, shall be paid to the Fund. R.S.O. 1960, c. 425, s. 2.

CHAPTER 491

The Waste Management Act

1. In this Act, Interpretation

(*a*) "Advisory Board" means the Waste Management Advisory Board;

(*b*) "Appeal Board" means the Waste Management Appeal Board;

(*c*) "Department" means the Department of Energy and Resources Management;

(*d*) "Director" means the Director of the Waste Management Branch of the Department of Energy and Resources Management;

(*e*) "inspector" means a person employed or appointed to assist in the administration of this Act;

(*f*) "medical officer of health" means a medical officer of health appointed under *The Public Health Act*; R.S.O. 1970, c. 377

(*g*) "Minister" means the Minister of Energy and Resources Management;

(*h*) "municipality" includes a metropolitan municipality, a regional municipality and a district municipality;

(*i*) "operator" means the person in occupation of having the charge, management, or control of a waste management system or a waste disposal site;

(*j*) "owner" means a person or municipality that owns or is responsible for the establishment or direction of a waste management system or a waste disposal site;

(*k*) "regulations" means the regulations made under this Act;

(*l*) "waste" includes ashes, garbage, refuse, domestic waste, industrial waste, or municipal refuse and such other wastes as are designated in the regulations;

(*m*) "waste disposal site" means any land or land covered by water upon which, or building or structure in which, waste is deposited or processed and any machinery or equipment or operation required for the treatment or disposal of waste;

(*n*) "waste management system" means all facilities, equipment and operations for the complete management of waste, including the collection, handling, transporta-

tion, storage, processing and disposal thereof, and may include one or more waste disposal sites. 1970, c. 44, s. 1.

Application of Act

2. This Act does not apply to the storage or disposal by any person of his domestic wastes on his own property unless in the opinion of the Minister such storage or disposal may create a nuisance or to any sewage or other works to which *The Ontario Water Resources Commission Act* or the regulations thereunder apply. 1970, c. 44, s. 2.

R.S.O. 1970, c. 332

Authority of Minister

3. The Minister, for the purposes of the administration and enforcement of this Act and the regulations, may,

(*a*) investigate waste management problems;

(*b*) conduct research in the field of waste management;

(*c*) establish and operate demonstration and other waste disposal sites;

(*d*) publish and disseminate information on waste management;

(*e*) make grants for research, for training persons in the field of waste management, or for the development of waste management facilities, in such amounts and upon such terms and conditions as the regulations may prescribe;

(*f*) appoint committees to perform such advisory functions as the Minister considers desirable. 1970, c. 44, s. 3.

Authorization by Minister

4. The Minister may authorize any officer or officers of the Department to exercise any of the powers conferred and perform any of the duties imposed upon him under this Act and the regulations. 1970, c. 44, s. 4.

Inspectors

5.—(1) The Minister may designate officers of the Department or other persons as inspectors for the purposes of this Act and the regulations.

Idem

(2) A medical officer of health shall be deemed to be *ex officio* an inspector under this Act. 1970, c. 44, s. 5.

Powers of inspector

6. An inspector may enter in or upon any land or premises, other than a dwelling, at any reasonable time and make or require to be made such examinations, tests, or inquires as may be necessary or advisable for the purposes of this Act and the regulations. 1970, c. 44, s. 6.

Information to be furnished

7. Every operator and every owner shall furnish such information as an inspector requires for the purposes of this Act and the regulations. 1970, c. 44, s. 7.

Obstruction of inspector

8. No person shall hinder or obstruct any inspector in the performance of his duties or furnish any inspector with false information or refuse to furnish him with information. 1970, c. 44, s. 8.

Waste Management Advisory Board

9.—(1) The board known as the Waste Management Advisory Board is continued and shall consist of not fewer than five persons appointed by the Lieutenant Governor in Council, of whom none shall be members of the public service in the employ of the Department of Energy and Resources Management or members of the Appeal Board, and who shall, subject to subsection 2, hold office during pleasure. 1970, c. 44, s. 9 (1), *amended*.

Term of office

(2) No member of the Advisory Board shall hold office for more than five consecutive years.

Chairman and vice-chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Advisory Board as chairman and another of the members as vice-chairman.

Quorum

(4) Three members of the Advisory Board constitute a quorum.

Remuneration

(5) The members of the Advisory Board shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines. 1970, c. 44, s. 9 (2-5).

Waste Management Appeal Board

10.—(1) The board known as the Waste Management Appeal Board is continued and shall consist of not fewer than five persons appointed by the Lieutenant Governor in Council, of whom none shall be members of the public service in the employ of the Department of Energy and Resources Management or members of the Advisory Board, and who shall, subject to subsection 2, hold office during pleasure. 1970, c. 44, s. 10 (1), *amended*.

Term of office

(2) No member of the Appeal Board shall hold office for more than five consecutive years.

Chairman and vice-chairman

(3) The Lieutenant Governor in Council may appoint one of the members of the Appeal Board as chairman and another of the members as vice-chairman.

Quorum

(4) Three members of the Appeal Board constitute a quorum.

Remuneration

(5) The members of the Appeal Board shall be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine. 1970, c. 44, s. 10 (2-5).

Certificate of approval, etc.

11. No waste management system that is in operation or waste disposal site that is in use when this Act comes into force shall be operated or used,

(*a*) for more than six months after this Act comes into force unless the owner has made application for a certificate of approval;

(*b*) after a certificate of approval has been refused; or

(*c*) where a certificate of approval or provisional certificate of approval has been issued, except in accordance with the terms and conditions of such certificate. 1970, c. 44, s. 11.

New systems and sites and extensions, etc.

12. No person or municipality shall establish, alter, enlarge or extend,

(*a*) a waste management system; or

(*b*) a waste disposal site,

unless a certificate of approval or provisional certificate of approval therefor has been issued by the Minister. 1970, c. 44, s. 12.

No money by-law without certificate

13. No by-law for raising money to finance any work under section 12 shall be passed by the council of a municipality until a certificate of approval or a provisional certificate of approval has been issued therefor. 1970, c. 44, s. 13.

Municipal responsibility

14. Where the Minister reports in writing to the clerk of a municipality that he is of the opinion that it is necessary in the public interest that waste be collected or a waste management system or any part thereof be established, maintained, operated, improved, extended, enlarged, altered, repaired or replaced, it is not necessary to obtain the assent of the electors to any by-law for incurring a debt for any such purpose, and the municipality shall forthwith do every possible act and thing in its power to implement the report of the Minister within the time specified. 1970, c. 44, s. 14.

Condition precedent to issue of certificate

15. No certificate of approval shall be issued to an applicant other than a municipality unless the applicant has,

(*a*) deposited a sum of money; or

(*b*) furnished a surety bond; or

(*c*) furnished personal sureties,

in such amount and upon such conditions as the regulations prescribe to assure satisfactory maintenance of the waste management system or the waste disposal site or the removal of waste from the site if the Minister considers such removal necessary. 1970, c. 44, s. 15.

Certificate of municipality required

16. No certificate of approval for a waste disposal site shall be issued to an applicant other than a municipality unless the applicant has furnished a certificate from the municipality in which the waste disposal site is situated that the waste disposal site does not contravene any of the by-laws of the municipality. 1970, c. 44, s. 16.

Return of deposit

17. The deposit mentioned in clause *a* of section 15 may be returned to the depositor upon such terms and conditions as the regulations prescribe. 1970, c. 44, s. 17.

Publication of notice of application

18. An applicant for a certificate of approval for a waste management system or waste disposal site that is proposed to establish, alter, enlarge or extend shall publish notice of his application in a newspaper having general circulation in the locality where the system or site is or is to be located, once a week for three successive weeks, and no certificate of approval shall be issued until the expiration of three weeks from the date of the last publication. 1970, c. 44, s. 18.

Information to be furnished

19. An applicant for a certificate of approval shall submit to the Director plans and specifications of the work to be undertaken together with such other information as the Director may require. 1970, c. 44, s. 19.

Recommendation by Director

20.—(1) The Director, after considering an application for a certificate of approval, may recommend to the Minister that a certificate of approval or provisional certificate of approval be issued.

Idem

(2) The Director may recommend to the Minister that the issue or renewal of a certificate of approval or a provisional certificate of approval be refused, or that a certificate of approval or a provisional certificate of approval previously issued be suspended or revoked, where,

(*a*) the application does not comply with this Act and the regulations;

(*b*) the waste management system or the waste disposal site does not comply with this Act and the regulations; or

(*c*) the operation of the waste management system or the waste disposal site may create a nuisance or is not in the public interest or, in the opinion of the medical officer of health, may result in a hazard to public health. 1970, c. 44, s. 20.

Prohibition as to deposit of waste

21. Subject to section 11, no person or municipality shall deposit waste upon any land or land covered by water or in any building that is not a waste disposal site for which a certificate of approval or a provisional certificate of approval has been issued and except in accordance with the terms and conditions of such certificate. 1970, c. 44, s. 21.

Prohibition as to use of facilities, etc.

22. Subject to section 11, no person or municipality shall use any facilities or equipment for the storage, handling, treatment, collection, transportation, processing or disposal of waste that is not part of a waste management system for which a certificate of

approval or a provisional certificate of approval has been issued and except in accordance with the terms and conditions of such certificate. 1970, c. 44, s. 22.

Order for removal of waste

23.—(1) Where the Director reports that waste has been deposited upon any land or land covered by water or in any building that has not been approved as a waste disposal site, the Minister may, subject to sections 11 and 26, order the occupant or the person having charge and control of such land or building to remove the waste and to restore the site to a condition satisfactory to the Minister.

Action upon failure to comply with order

(2) Where a person to whom an order is directed under subsection 1 fails to comply with the order, the Minister may cause the necessary work to be done and charge such person with the cost thereof, which may be recovered with costs in any court of competent jurisdiction. 1970, c. 44, s. 23.

Order by Minister

24. Where the Director reports to the Minister that a waste management system or a waste disposal site is not in conformity with this Act or the regulations, the Minister may, subject to section 26, order the owner to take such action as he may require to bring the system or the site into conformity with this Act or the regulations within the time specified in the order. 1970, c. 44, s. 24.

Action upon non-compliance with order

25. Where an owner fails to comply with an order under section 24, the Minister may cause the necessary work to be done and charge the owner with the cost thereof which, in the case of an owner other than a municipality, may be deducted from the deposit mentioned in section 15, or may be recovered with costs in any court of competent jurisdiction. 1970, c. 44, s. 25.

Where Minister intends to make order, etc.

26.—(1) Where the Minister,

(*a*) intends to refuse to issue or renew or intends to suspend or revoke a certificate of approval or provisional certificate of approval; or

(*b*) intends to make an order under section 23 or 24,

he shall cause the Director to give notice of his intention, together with the reasons therefor, and a notice stating the right to a hearing before the Advisory Board, to the owner or the person to whom the order would be directed, as the case may be, and the owner or such person may by written notice given to the Director and the Advisory Board within fifteen days after receipt of notice from the Director, receive a hearing by the Advisory Board.

Notice of hearing

(2) The chairman of the Advisory Board shall fix a time, date and place for the hearing and shall serve notice on the parties at least ten days before the day fixed.

(3) The notice of hearing shall contain, Contents of notice

(*a*) a statement of the time, date and place of the hearing;

(*b*) a reference to the rules of procedure applicable to the hearing; and

(*c*) a statement that, if a party who has been duly notified does not attend at the hearing, the Advisory Board may proceed in his absence and he is not entitled to notice of any further proceedings.

(4) The Director, any person who receives a notice from the Director under subsection 1, and any other person specified by the Advisory Board, are parties to the hearing. 1970, c. 44, s. 26. Parties

27.—(1) If a person who has been duly notified of a hearing does not attend, the Advisory Board may proceed in his absence and he is not entitled to notice of any further proceedings. Failure to attend

(2) A hearing may be adjourned from time to time by the Advisory Board on reasonable grounds, Adjournment

(*a*) on its own motion; or

(*b*) on the motion of any party to the hearing.

(3) The Advisory Board may command the attendance before it of any person as a witness. Subpoena

(4) The Advisory Board may require any person, Oaths and affirmations

(*a*) to give evidence on oath or affirmation at a hearing; and

(*b*) to produce such documents and things as the Advisory Board requires.

(5) The Advisory Board may admit evidence not given on oath or by affirmation. 1970, c. 44, s. 27. Idem

28.—(1) At a hearing before the Advisory Board, Evidence

(*a*) except where otherwise provided in this subsection, the common law and statutory rules of evidence apply;

(*b*) evidence not admissible under clause *a* may be admitted by the Advisory Board in its discretion if to do so may expedite the hearing and will not prejudice any party; and

(*c*) the Advisory Board may admit evidence in the form of a copy or an excerpt of a document if the document itself is not readily available.

(2) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Advisory Board within a reasonable time after the matter in issue has been finally determined. 1970, c. 44, s. 28. Release of exhibits

Offence

29.—(1) Any person who, without lawful excuse,

(*a*) on being duly summoned as a witness before the Advisory Board, makes default in attending; or

(*b*) being in attendance as a witness before the Advisory Board, refuses to take an oath legally required by the Advisory Board to be taken, or to produce any documents or things in his power or control legally required by the Advisory Board to be produced by him, or to answer any question to which the Advisory Board may legally require an answer; or

(*c*) does any other thing that would, if the Advisory Board had been a court of law having power to commit for contempt have been contempt of that court,

is guilty of an offence.

Enforcement

(2) The Advisory Board may certify an offence under subsection 1 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of that court. 1970, c. 44, s. 29.

Right of party to counsel

30.—(1) Any party may be represented before the Advisory Board by counsel or agent.

Right of witness to counsel

(2) Any witness may be represented before the Advisory Board by counsel or agent, but at the hearing the counsel or agent may only advise the witness and state objections under the provisions of the relevant law.

Exclusion of counsel or agent

(3) Where a hearing is *in camera*, a counsel or agent for a witness shall be excluded except when that witness is giving evidence. 1970, c. 44, s. 30.

Rights of parties

31.—(1) Any party who is present at a hearing before the Advisory Board may call and examine his witnesses, cross-examine opposing witnesses and present his arguments and submissions.

Hearings to be open to public, exceptions

(2) All hearings shall be open to the public except where the Advisory Board finds that,

(*a*) public security may be involved; or

(*b*) intimate financial or personal circumstances of any person or any secret manufacturing or trade process may be disclosed,

in which case the Advisory Board shall hold the hearing as to any such matters *in camera*.

(3) Notwithstanding the exceptions mentioned in clauses *a* and *b* of subsection 2, the Advisory Board may, if in its opinion the public interest so requires, proceed without regard to such exceptions. 1970, c. 44, s. 31. Idem

32.—(1) The Advisory Board shall, after the hearing, submit to the Minister in writing its recommendations, including the reasons therefor, and shall furnish the Minister with a copy of the evidence submitted at the hearing. Recommendations to Minister by Board

(2) The reasons for the Advisory Board's recommendations shall contain, Reasons for recommendations

(*a*) the findings of fact on the evidence and any information or knowledge used in reaching the decision;

(*b*) any agreed findings of fact; and

(*c*) any conclusions of law based on the findings mentioned in clauses *a* and *b*.

(3) The Advisory Board shall serve each party with a copy of its recommendations together with the reasons therefor. 1970, c. 44, s. 32. Notice of recommendations

33.—(1) Upon receipt of the recommendations of the Advisory Board, the Minister may issue or renew, or refuse to issue or renew, or suspend or revoke a certificate of approval, or a provisional certificate of approval, or may make such order under section 23 or 24, as the case may be, as he considers necessary. Powers of Minister

(2) A notice of the decision of the Minister and a notice stating the right, if any, to apply for compensation under section 34 shall be served on each party either personally or by registered mail addressed to the party at his latest known address. 1970, c. 44, s. 33. Notice of decision

34.—(1) Within thirty days after the receipt of notice of the decision that the Minister has refused to renew or has suspended or revoked a certificate of approval, any owner who has suffered pecuniary loss as a result of such decision affecting his waste disposal site or waste management system may apply to the Minister for compensation for such loss where such owner, Right to compensation

(*a*) has received a certificate of approval for the waste disposal site or waste management system affected by the Minister's decision; and

(*b*) since receiving such certificate of approval, has strictly complied with this Act and the regulations.

(2) A notice of the decision of the Minister in disposing of the application and a notice stating the right to an appeal under this section shall be served on the owner either personally or by registered mail addressed to the owner at his latest known address. Notice of decision and right to appeal

Right to appeal

(3) Within fifteen days after receipt of the notices referred to in subsection 2, the owner may appeal the amount of compensation, if any, to the Appeal Board, and such appeal shall be a hearing *de novo* and the Appeal Board may dismiss the appeal or alter the decision of the Minister establishing the amount of the compensation, if any, and the decision of the Appeal Board is final.

Application of certain sections

(4) Subsections 2, 3 and 4 of section 26 and sections 27, 28, 29, 30 and 31 apply *mutatis mutandis* to a hearing before the Appeal Board.

Decision of Appeal Board

(5) The Appeal Board shall, after the hearing, submit to the Minister and the appellant its decision in writing and shall furnish the Minister with a copy of the evidence submitted at the hearing.

Reasons for decision

(6) The reasons for the Appeal Board's decision shall contain,

(*a*) the findings of fact on the evidence and any information or knowledge used in reaching the decision;

(*b*) any agreed findings of fact; and

(*c*) any conclusions of law based on the findings mentioned in clauses *a* and *b*.

Copy of decision to be served

(7) The Appeal Board shall serve each party with a copy of its decision together with the reasons therefor.

Minister to take necessary action

(8) After receipt of the decision of the Appeal Board, the Minister shall do what is necessary to give effect thereto. 1970, c. 44, s. 34.

Former disposal sites

35. No use shall be made of land or land covered by water which has been used for the disposal of waste within a period of twenty-five years from the year in which such land ceased to be so used unless the approval of the Minister for the proposed use has been given. 1970, c. 44, s. 35.

Offences

36. Every person or municipality that contravenes any of the provisions of this Act or the regulations or fails to comply with an order made under section 23 or 24 is guilty of an offence and on summary conviction is liable to a fine of not less than $100 and not more than $2,000 for every day or part thereof upon which such offence occurs or continues. 1970, c. 44, s. 36.

Regulations

37. The Lieutenant Governor in Council may make regulations,

(*a*) designating wastes in addition to those specified in clause *l* of section 1, and exempting any wastes from this Act and the regulations or any provision thereof, and prescribing terms and conditions for such exemption;

(*b*) classifying waste management systems and waste disposal sites, and exempting any class thereof from this

Act or the regulations or any provision thereof, and prescribing terms and conditions for such exemption;

(c) providing for the issue of certificates of approval and provisional certificates of approval for waste management systems or waste disposal sites, or any class thereof, prescribing terms and conditions upon which such certificates may be issued, and providing for determining the terms and conditions that may be attached thereto;

(d) governing and regulating the management of waste and prescribing standards for waste management systems and for the location, maintenance and operation of waste disposal sites, or any class thereof;

(e) governing the location of waste disposal sites and designating parts of Ontario in which no waste disposal sites, or any class thereof, shall be established or operated;

(f) prescribing the amounts and conditions of deposits and bonds and sureties for the purpose of section 15, and prescribing the terms and conditions upon which deposits may be returned under section 17;

(g) prescribing the records that shall be kept by operators of waste management systems and waste disposal sites and the reports that shall be made by such operators;

(h) prescribing the amounts and terms and conditions of grants payable to universities and other organizations under clause *e* of section 3;

(i) prescribing the form of application and the procedure to be followed in applying for any compensation under this Act;

(j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act or the regulations. 1970, c. 44, s. 37.

CHAPTER 492

The Water Powers Regulation Act

1. In this Act, Interpretation

(*a*) "inspector" means a commission, public body or person designated by the Lieutenant Governor in Council to act as inspector under this Act, and includes the officers, agents and servants of the inspector employed and acting under the authority and direction of such inspector;

(*b*) "owner of a water power" means every municipal corporation, company, firm or individual being or claiming to be the owner, lessee, licensee, occupant, tenant or assignee of a right to use any of the waters of Ontario for the purpose of generating hydraulic, electrical or pneumatic power or energy under any grant, lease or licence from the Crown, or any person, or under contract with, or franchise from any public body representing the Crown or the Province of Ontario or under the general law or any special Act of the Legislature or otherwise;

(*c*) "power" means hydraulic, electrical or pneumatic power or energy;

(*d*) "regulations" means the regulations made under this Act;

(*e*) "works" means every dam, wing dam, forebay, gate, rack, canal, conduit, pipe, aqueduct, penstock, tunnel and every other work that has been or may be constructed or used for or in connection with the control or diversion of water and the conveying of it to a power house or other place at which power may be generated, and includes all buildings, structures, plant, machinery, appliances and other works and things used for or appurtenant to the production and generation of power. R.S.O. 1960, c. 426, s. 1.

2. It is the duty of every owner of a water power to ensure as far as possible the economical and efficient use of the water used by him. R.S.O. 1960, c. 426, s. 2. Duty of owner as to use of water

3. The Lieutenant Governor in Council may appoint an inspector or inspectors who, in addition to the powers hereinafter mentioned, when required by the Lieutenant Governor in Council so to do, may, Appointment and powers of inspectors

(*a*) at all reasonable times enter upon any works and examine and inspect the works;

(*b*) take such measurements and tests as may be necessary from time to time in order to determine or to fix, as the case may be, in respect of the owner of any water power,

(i) the quantity of water used, permitted to be used or available for use,

(ii) operating head and head losses,

(iii) electrical and hydraulic efficiency of main or auxiliary machinery or of any other portion of the works, or of the works as a whole,

(iv) the amount of power developed, permitted to be developed or available for development,

(v) in terms of cubic feet per second, the amount of water that it is necessary to use in order to develop or generate any amount of horsepower or to exercise any water rights for any purpose;

(*c*) require the production of books, records, charts, readings, maps, plans, load curves and all other documents and records pertaining to the matters to be investigated, inquired into or determined under this Act;

(*d*) if it appears to him that the water permitted to be used is not being utilized with a proper degree of efficiency or economy, or that the works or any part of the works are so constructed, or are of such a type, or have so depreciated that the water cannot be used with a proper degree of efficiency or economy, after giving the interested parties a reasonable opportunity to be heard, order the water to be used, or the machinery or the works or any part of them, to be replaced or removed, altered or reconstructed, as the case may be, in such manner or to such an extent as may be necessary to secure the proper degree of efficient and economical use of the water; and

(*e*) if any order so made is not carried out within a reasonable time, enter upon the works and, at the expense of the owner of a water power, shut off or reduce the supply of water or close the works or any part thereof in such a manner as to prevent further use until such order has been obeyed. R.S.O. 1960, c. 426, s. 3.

Appeal to Lieutenant Governor in Council

4.—(1) Where an order made by the inspector calls for alterations, repairs or improvements in the works, there may be an appeal from the order of the inspector to the Lieutenant Governor in Council, and the Lieutenant Governor in Council may make such order in the premises as may be considered proper, which order is final.

(2) Upon such appeal, if the Lieutenant Governor in Council is of the opinion that the additions, alterations or improvements required to be made in the works will be of material public advantage by reason of the more efficient or economical use of the water and that the owner of the water power will not presently receive a corresponding commercial advantage from such alterations or improvements, the Lieutenant Governor in Council may direct a reference to determine what compensation, if any, should be made to the owner of the water power by reason of his being compelled to make such additions, alterations or improvements; and upon such reference all the circumstances shall be taken into account and if the referee is of the opinion that the owner is entitled to compensation, the referee may fix the amount thereof at such sum as he may consider just and reasonable, and upon the owner carrying out the order of the inspector or of the Lieutenant Governor in Council, the amount so awarded is payable to the owner in the same manner as a judgment recovered against the Crown in any court in Ontario. R.S.O. 1960, c. 426, s. 4.

Reference to determine compensation of owner

5. It is the duty of the owner of a water power, subject to the right of appeal hereinbefore given, to obey at all times the orders of the inspector and to afford every facility for carrying out this Act and the regulations, and every owner of a water power who neglects or refuses to carry out any such order or who obstructs or hinders or delays the inspector or refuses to furnish him with such information and records as he may require, is liable to a penalty of not less than $300 and not more than $2,000, and each and every day on which such offence is committed or continued shall be deemed to create a separate offence. R.S.O. 1960, c. 426, s. 5.

Duty of owner as to inspection

6.—(1) Where an inspector appointed under section 3 has been directed or required by the Lieutenant Governor in Council to exercise any of the powers or to perform any of the duties set out in clauses *a* to *e* of that section, and the owner of the water power, or any officer, agent or servant of the owner of a water power, hinders, delays or obstructs the inspector in the performance of any such duty, or refuses to permit the inspector to enter upon the premises of the owner of the water power, or to carry out or exercise any of such powers and duties, the inspector may apply to the judge of the county or district court, or to a judge of the Supreme Court, in a summary manner, for an order directing the owner of the water power, his officers, agents or servants, to afford such facilities for inspection as may be necessary for carrying out this Act and the regulations, and require him to obey the orders of the inspector on that behalf, and to admit the inspector to the premises of the owner of the water power, and to cease from such obstruction, hindrance or delay, and to furnish the inspector with such information and records as he may require in order to comply with the direction or requirements of the Lieutenant Governor in Council.

Inspector's application to judge for order when obstructed, etc.

Order of judge

(2) Upon the application the judge may make such order as he considers requisite in order to secure compliance with this Act and the regulations and the performance by the inspector of his duties, and the order is final and is not subject to appeal.

Application of R.S.O. 1970, c. 227

(3) *The Judges' Orders Enforcement Act* applies to every application and order made under this section. R.S.O. 1960, c. 426, s. 6.

Fixing quantity of water to be taken in exercise of rights

7. Where any lease, licence, order in council or other instrument or any general or special statutory provision confers or purports to confer the right to develop or generate power measured expressly or impliedly in horsepower, or where any such instrument or provision confers or purports to confer a right of diversion or use of water defined wholly or in part by the character, location or dimensions of works, the inspector may fix in terms of cubic feet per second the amount of water that it is necessary to use in order to develop or generate such power or to exercise such right, having regard to the location of the works and to all the circumstances of the case and to the degree of efficiency that the owner of the water power should be required to maintain in the premises. R.S.O. 1960, c. 426, s. 7.

Submission and approval of plans

8. Every owner of a water power, before proceeding with the construction of any works or any alteration or extension of existing works or with the purchase or installation of new works, shall submit to an inspector plans and specifications showing the details of the proposed construction, alteration or extension or of the new works proposed to be purchased or installed, and he shall not proceed therewith or let contracts therefor until such plans and specifications have been approved by the inspector. R.S.O. 1960, c. 426, s. 8.

Limitation and definition of rights by Lieutenant Governor in Council

9.—(1) Where the rights of the owner of a water power to use water for the purpose of generating power do not appear to be expressly or impliedly limited by any stipulation as to the quantity of water to be used or as to the amount of horsepower that may be generated or otherwise, and the Lieutenant Governor in Council considers it desirable in the public interest that such rights should be specifically limited and defined, he may direct the inspector to inquire and report,

(*a*) as to the amount of power that the owner of a water power is authorized to generate under any contract, lease, licence or other instrument, or under any general or special Act of the Legislature or otherwise; and

(*b*) as to the quantity of water that it is necessary, having due regard to efficiency and economy in development, to use for the purpose of generating such amount of power,

and, upon such report, the Lieutenant Governor in Council may fix and determine, in horsepower, the amount of water that the owner shall generate and in terms of cubic feet per second the amount of water that it is necessary to use in order to develop or generate such power.

Reference to ascertain rights affected

(2) If the owner is dissatisfied with the construction so placed upon his rights, or with such limitation and definition, the Lieutenant Governor in Council may, upon the application of the owner, direct a reference to ascertain what rights, if any, have been restricted or impaired by such limitation and definition, and if it is found that such rights exist and that they are so restricted or impaired, to ascertain the compensation that should be paid to the owner for such restriction or impairment.

Payment of compensation

(3) The amount of the compensation awarded to the owner upon such reference shall be paid to him in the same manner as the amount of a judgment recovered against the Crown. R.S.O. 1960, c. 426, s. 9.

Limitation of rights of owner by order in council

10.—(1) Where the Lieutenant Governor in Council considers that the public interest requires that any rights conferred upon the owner of a water power should be restricted or limited in any particular, he may by order in council limit, define or restrict such rights to the construction, operation and use of such works only as may be considered expedient in the public interest.

Reference to determine compensation

(2) If the owner considers himself aggrieved by any such limitation, definition or restriction, the Lieutenant Governor in Council may direct a reference to determine what compensation, if any, should be paid to the owner, and the referee has the like powers and shall proceed in the same manner, and the amount awarded is payable in the same way as in the case of a reference under section 9. R.S.O. 1960, c. 426, s. 10.

Matters to be considered on reference

11.—(1) Upon any reference under this Act, the referee shall take into consideration,

(*a*) the conditions under which any rights to generate or develop power were originally obtained;

(*b*) the consideration paid or agreed to therefor;

(*c*) the capital invested in any works by the owner of a water power;

(*d*) the circumstances that render any limitation or restriction of such rights necessary and desirable in the public interest.

Powers of referee R.S.O. 1970, c. 379

(2) The referee, upon any inquiry under this Act directed by the Lieutenant Governor in Council, has all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. R.S.O. 1960, c. 426, s. 11.

Regulations

12. The Lieutenant Governor in Council may make regulations respecting,

(*a*) the procedure to be followed by the inspector and for conferring on him the powers of a commissioner under *The Public Inquiries Act*;

(*b*) the form and term of notices to be given by the inspector and the enforcement of his orders;

(*c*) the appointment of officers, servants and agents by the inspector and their duties and powers;

(*d*) the procedure to be followed upon any appeal from an order of the inspector;

(*e*) any return to be made by the owner of a water power and the particulars to be stated in such returns;

(*f*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 426, s. 12.

Where owner exceeds his rights, etc.

13.—(1) Where the inspector reports that the owner of a water power,

(*a*) is diverting or using more water than the owner is entitled to divert or use; or

(*b*) is developing or generating a greater amount of power in horsepower than the owner is entitled to develop or generate; or

(*c*) has installed works and equipment capable of developing or generating a greater amount of power in horsepower than the owner is entitled to develop or generate,

the Lieutenant Governor in Council may appoint three commissioners, who shall be judges of the Supreme Court, to hold an inquiry under *The Public Inquiries Act*, and report to the Lieutenant Governor in Council as to,

R.S.O. 1970, c. 379

(*d*) the quantity of water in cubic feet per second that the owner is entitled to divert or use;

(*e*) the amount of power in horsepower that the owner is entitled to develop or generate;

(*f*) the extent, if any, by which the capacity of the works installed or equipped by the owner exceeds the amount of power in horsepower that the owner is entitled to develop or generate;

(*g*) the price and terms and conditions upon which, having regard to all the circumstances and to the rights of the owner as ascertained by the commissioners, the power to the extent of such excess should be delivered to The Hydro-Electric Power Commission of Ontario as hereinafter provided; and

(*h*) such matters connected with or arising out of the subject-matter of the reference as they may consider expedient.

Where commissioners find that owner is exceeding his rights

(2) If the commissioners find that the owner is diverting or using more water than he is entitled to divert or use, or is developing or generating a greater amount of power in horsepower than he is entitled to develop or generate, or that he has installed and equipped works exceeding in capacity the amount of power that he is entitled to develop or generate, the Lieutenant Governor in Council may order the owner to deliver to The Hydro-Electric Power Commission of Ontario, upon the date named in the order, such amount of electrical power or energy as equals such excess as found by the report of the commissioners, or to operate the works of the owner to their full capacity and to deliver such excess power to The Hydro-Electric Power Commission of Ontario. R.S.O. 1960, c. 426, s. 13 (1, 2).

Penalty for disobedience to order

(3) If the owner refuses or neglects to deliver such power after notice in writing so to do, he is liable to a penalty of $1,000 for every day during which such neglect or default continues, to be recoverable by action in the Supreme Court at the suit of the Minister of Justice and Attorney General. R.S.O. 1960, c. 426, s. 13 (3), *amended*.

Other liabilities of owner not affected

(4) Nothing in this section affects or diminishes any duty or obligation as to payment of any penalty or rental to which the owner might otherwise be liable for exceeding the amount of power that he is entitled to develop or generate, and all such penalties may be collected and all such rentals shall be due and payable and the like proceedings may be taken by the Crown or by any commission or other public body from which the rights or franchises of the owner are derived, as if this Act had not been passed. R.S.O. 1960, c. 426, s. 13 (4).

Owner exceeding right to use water or develop power at Niagara Falls

14. Where the owner is developing electrical power or energy by the diversion of the waters of the Niagara River under any contract, agreement, licence, lease or other instrument entered into by the owner or his predecessors in title with or granted to the owner or his predecessors in title by the Commissioners of the Queen Victoria Niagara Falls Park, and the owner diverts or uses more water than he is entitled to divert or use or develops or generates a greater amount of electrical energy than he is entitled to develop or generate under the contract, agreement, licence, lease or other instrument, the inspector may, with the authority of the Lieutenant Governor in Council, give to the owner notice in writing to cease diverting or using more water than he is entitled to divert or use or generating or developing a greater amount of electrical power than he is entitled to develop or generate, and if the owner, after the expiration of one month from the giving of such notice, diverts or uses more water than he is entitled to divert

or use or develops or generates a greater amount of electrical power or energy than he is entitled to develop or generate, then every franchise or right of occupancy or possession or right to develop or use any of the waters of the Niagara River or to operate or construct any works that may be enjoyed by the owner therefor, and notwithstanding anything contained in any such contract, agreement, licence, lease or other instrument or in any by-law or in any general or special Act of the Legislature ceases and is at an end. R.S.O. 1960, c. 426, s. 14.

Rescission of order for delivery of excess development

15. The Lieutenant Governor in Council may, at any time, rescind any order made by him under subsection 2 of section 13, and thereupon all right of the owner to develop power or use water or develop or generate power in excess of the owner's rights as found by the commissioners ceases, but any such rescission does not relieve the owner from any penalties incurred by him under subsection 3 of section 13 prior to the date of such rescission. R.S.O. 1960, c. 426, s. 15.

Sale of water powers and privileges

16.—(1) The Minister of Lands and Forests in his discretion may fix the terms and conditions upon which water powers or privileges granted by the Crown and any Crown lands necessary for the development thereof may be sold or leased and developed.

Agreements, etc., to be binding on Crown

(2) All agreements, leases, licences, renewals or other writings relating to water powers or privileges or any Crown lands necessary for the development thereof are binding upon the Crown when signed by the Minister of Lands and Forests or by the Deputy Minister of Lands and Forests. R.S.O. 1960, c. 426, s. 16.

CHAPTER 493

The Weed Control Act

Interpretation

1. In this Act,

(*a*) "chief inspector" means the chief inspector appointed under this Act;

(*b*) "county weed inspector" means a person appointed by the council of a county to enforce this Act within the county;

(*c*) "district weed inspector" means a district weed inspector appointed under this Act;

(*d*) "inspector" means county weed inspector, district weed inspector, local weed inspector and municipal weed inspector;

(*e*) "local weed inspector" means a person appointed by the council of a local municipality to enforce this Act within the municipality;

(*f*) "Minister" means the Minister of Agriculture and Food;

(*g*) "municipal weed inspector" means a person appointed by the council of a municipality not forming part of a county for municipal purposes;

(*h*) "noxious weed" means a plant that is designated under this Act as a noxious weed;

(*i*) "owner" means the person shown as the owner of property on the last revised assessment roll of the municipality in which the property is located;

(*j*) "regulations" means the regulations made under this Act;

(*k*) "weed seed" means the seed of a noxious weed. R.S.O. 1960, c. 427, s. 1; 1966, c. 160, s. 1.

Persons deemed in possession

2. For the purposes of this Act, the owner of any land shall be deemed, unless the contrary is proved, to be the person in possession of the land. 1966, c. 160, s. 2.

Appointment of inspectors, chief and district

3. The Lieutenant Governor in Council may appoint a chief inspector and a district weed inspector for any district designated in his appointment. R.S.O. 1960, c. 427, s. 2.

Duty to destroy noxious weeds

4.—(1) Every person in possession of land shall destroy all noxious weeds thereon. 1966, c. 160, s. 3.

Riparian owners

(2) Where land abuts a river, stream or lake or other natural body of water, the person in possession of the land shall destroy all noxious weeds as required under subsection 1 that are growing between the limit of his land and the low water mark of that body of water. R.S.O. 1960, c. 427, s. 3 (2).

Road authorities deemed in possession of roads R.S.O. 1970, c. 201

5.—(1) For the purposes of section 4, every road authority within the meaning of *The Highway Improvement Act* shall be deemed to be the person in possession of the land under its jurisdiction.

Recovery from road authorities

(2) Where the Minister is of the opinion that a road authority has failed to perform its duty under section 4, the Lieutenant Governor in Council may direct that any sums of money payable out of the Consolidated Revenue Fund to the road authority be withheld until such time as the Minister of Highways is satisfied that the road authority has performed such duty. R.S.O. 1960, c. 427, s. 4.

Appointment of inspectors in counties, cities, separated towns and municipalities in territorial districts

6.—(1) The council of every county, city and separated town and of every municipality on a territorial district shall pass by-laws appointing one or more persons as county weed inspectors, municipal weed inspectors or local weed inspectors, as the case may be, to enforce this Act in the area within its jurisdiction and fixing their remuneration or other compensation.

Division of municipality into areas

(2) Any such council may divide the municipality into areas and appoint one or more inspectors for each area.

Failure to appoint inspectors

(3) Where a council fails to appoint an inspector under subsection 1, the Minister may appoint the inspector for the area within the jurisdiction of the council and fix his remuneration or other compensation and shall notify the council of the municipality in writing of the appointment and the treasurer of the municipality shall pay the remuneration or other compensation so fixed.

Annulment of inspector's appointment by Minister

(4) If in the opinion of the Minister any inspector is incompetent or fails to carry out his duties, the Minister, after a hearing giving the inspector and the council that appointed him an opportunity to make representations in that regard, may annul the appointment of the inspector.

Reinstatement

(5) If in the opinion of the Minister a council has wrongfully revoked the appointment of an inspector appointed under subsection 1, the Minister, after giving the council and the inspector an opportunity to make representations in that regard, may, in writing addressed to the council concerned, require the council to reinstate the appointment for the remainder of the year. R.S.O. 1960, c. 427, s. 5.

7.—(1) The council of any municipality not included in subsection 1 of section 6 may pass by-laws appointing one or more persons as local weed inspectors to enforce this Act in the area within its jurisdiction and fix their remuneration or other compensation for their services under this Act. Appointment of inspectors in towns, etc.

(2) Where persons are appointed local weed inspectors under subsection 1, they shall carry out their duties in co-operation with the county weed inspector and the county weed inspector may, when he considers it necessary, exercise all the powers of an inspector under this Act in that municipality. R.S.O. 1960, c. 427, s. 6. Co-operation with county inspector

8.—(1) The clerk of each municipality shall, before the 1st day of April in each year, state in writing to the chief inspector the name and address of every inspector for the municipality under this Act and the area for which each inspector is appointed. Clerk to report inspectors

(2) Where the council passes a by-law under this Act on or after the 1st day of April, the clerk shall within seven days after the passing of the by-law state in writing to the chief inspector the name and address of every inspector appointed and the area for which the appointment is made. Idem

(3) Where any person appointed by by-law under subsection 1 of section 6 resigns or the council revokes his appointment, the clerk of the municipality shall within seven days of the resignation or revocation, as the case may be, state the particulars thereof in writing to the chief inspector. R.S.O. 1960, c. 427, s. 7. Idem

9. Where road commissioners have been appointed under *The Statute Labour Act* in territory without municipal organization, they shall have the powers of an inspector, and the provisions of this Act and the regulations apply in the same manner as in the case of a municipality except that any sums payable by a person liable for expenses incurred or remuneration paid in enforcing this Act are collectable in the manner provided in *The Statute Labour Act* with respect to the enforcement of the payment of charges for statute labour or commutation thereof. R.S.O. 1960, c. 427, s. 8. Inspectors in territory without municipal organization R.S.O. 1970, c. 445

10. For the purpose of searching for noxious weeds or weed seeds, an inspector may at any time between sunrise and sunset enter upon any land and building other than a dwelling house in the area within his jurisdiction and inspect the land, and buildings, and any implements, machinery, vehicles and crops or other plants. R.S.O. 1960, c. 427, s. 9. Powers of inspectors

11.—(1) Where an inspector finds noxious weeds or weed seeds on land in the area within his jurisdiction, he may order the person in possession of the land to destroy the noxious weeds or weed seeds, and the person in possession of the land shall comply Order for destruction of weeds

with the order. R.S.O. 1960, c. 427, s. 10 (1); 1965, c. 141, s. 2; 1966, c. 160, s. 4.

Time for destruction of weeds

(2) Every order shall be in the prescribed form and shall specify the time within which the noxious weeds or weed seeds shall be destroyed, but no order shall specify a time of less than seven days from the date of service of the order.

Service of order

(3) Every order shall be served upon every person named in the order,

(*a*) where the person to be served resides on the land, by leaving a copy thereof with the person or with any person over the age of sixteen years residing on the land, or by sending it by registered mail addressed to the person at his usual place of residence; or

(*b*) where the person to be served does not reside on the land, by leaving a copy thereof with him or by sending it by registered mail addressed to him at his usual place of residence.

Service on owner

(4) Every order in which the owner of land is not named shall be served on the owner in the manner set out in subsection 3.

Appeal to chief inspector

(5) Where any person considers himself aggrieved by an order served upon him, he may, within four days after service of the order, appeal against the order or any requirements of the order to the chief inspector giving reasons for his objection to the order.

Disposition of appeal

(6) The chief inspector may confirm, modify or revoke any order of an inspector and shall send a copy of the confirmation, modification or revocation of the order to the inspector who issued the order and to every person upon whom the order was served. R.S.O. 1960, c. 427, s. 10.

Obstruction of inspectors

12. No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information, or refuse to furnish him with information. R.S.O. 1960, c. 427, s. 11.

Failure to comply with order

13.—(1) Where an order served under section 11 is not complied with, the inspector may cause the noxious weeds or weed seeds to be destroyed in the manner prescribed in the regulations.

Expenses of inspectors

(2) Every inspector shall keep a record of the expenses incurred by him in the discharge of his duties under subsection 1 with respect to each parcel of land in one possession, and he shall serve a statement thereof, together with a notice requesting payment, on the person in possession of the parcel and on the owner of the parcel.

Service of statement of expenses

(3) The statement and notice shall be served in the same manner as an order under section 11.

(4) If the person on whom a statement and notice were served under subsection 2 fails to pay the amount set out in the statement within fifteen days after the request for payment, the inspector shall present the statement to the council of the municipality in which the land is located, and the council, if the statement is proper, shall order it to be paid out of the general funds of the municipality. R.S.O. 1960, c. 427, s. 12 (1-4). Failure to pay

(5) The council shall cause every amount paid under subsection 4 to be placed on the collector's roll against the land concerned and it shall be collected in the same manner as taxes under *The Assessment Act*, subject to an appeal to the Assessment Review Court in the same manner as for taxes under section 76 of *The Assessment Act*. R.S.O. 1960, c. 427, s. 12 (5), *amended*. Collection of costs; R.S.O. 1970, c. 32

14. Notwithstanding any other provision of this Act, the council of any city, town, village or township, after publication of notice thereof in a newspaper having general circulation in the municipality, may direct any of its inspectors or the county weed inspector to cause the noxious weeds or weed seeds on any subdivided portions of the municipality, and lots not exceeding ten acres whether or not the lots are part of a subdivision, to be destroyed in the manner prescribed in the regulations, and the inspector shall report to the clerk of the municipality the amount of the expenses incurred by him in the discharge of his duties under this section with respect to each parcel of land concerned and the clerk shall place on the collector's roll of the municipality the amounts so expended against the respective parcels concerned and such amounts shall be collected in the same manner as taxes under *The Assessment Act*, subject to an appeal to the Assessment Review Court, in the same manner as for taxes under section 76 of *The Assessment Act*. R.S.O. 1960, c. 427, s. 13; 1965, c. 141, s. 3, *amended*. Destruction of weeds in subdivided areas

15.—(1) Where a district weed inspector finds noxious weeds or weed seeds on any land within the limits of a municipality in his district, he may deliver or send by registered mail to the clerk of the municipality a notice requiring such noxious weeds or weed seeds to be destroyed before a date specified in the notice. Notice to destroy by district inspector

(2) Where any such notice is not complied with, the district weed inspector may cause the noxious weeds or weed seeds to be destroyed in the manner prescribed in the regulations. Failure to comply with notice

(3) The expenses incurred by a district weed inspector under subsection 2 shall be paid by the municipality concerned and are recoverable in any court of competent jurisdiction by the Minister in the name of Her Majesty as a debt due the Crown, and in any such action the certificate purporting to be signed by the Minister as to the amount of the expenses is conclusive proof thereof without proof of his authority or signature. R.S.O. 1960, c. 427, s. 14. Recovery of expenses and charges

Deposit of noxious weeds

16. No person shall deposit or permit to be deposited any noxious weeds or weed seeds in any place where the weeds or weed seeds might grow or spread. R.S.O. 1960, c. 427, s. 15.

Cleaning machines

17. Where the moving of any machine used for threshing, combining, seed cleaning, chopping, baling, silo filling or other handling or processing of farm crops is likely to cause noxious weeds or weed seeds to grow or spread, no person shall move or cause to be moved such machine without first removing all seeds and other residue therefrom. R.S.O. 1960, c. 427, s. 16.

Grain elevators, etc.

18. Every person in charge of a grain elevator, grist mill, flour mill, seed-cleaning plant or other grain-cleaning or grain-grinding plant shall dispose of all refuse containing weed seeds in such manner as will prevent the weed seeds from growing or spreading. R.S.O. 1960, c. 427, s. 17.

Licensing of seed-cleaning plants

19.—(1) No person shall operate a plant for the cleaning of grain or seeds for seed purposes without a licence therefor from the Minister.

When no fee payable

(2) No fee is payable for a licence or any renewal thereof issued for a seed-cleaning plant that is used only for cleaning the grain and seed of the owner of the plant. R.S.O. 1960, c. 427, s. 18.

Offence

20.—(1) Every person who contravenes any of the provisions of this Act or of the regulations, or of any order made under this Act, is guilty of an offence and on summary conviction is liable for a first offence to a fine of not more than $25 and for a second or subsequent offence to a fine of not less than $25 and not more than $100. R.S.O. 1960, c. 427, s. 19.

Application of penalty

(2) Subsection 1 applies to a person who is in contravention of section 3 or of an order made under subsection 1 of section 11 notwithstanding that procedures for destroying weeds are provided for. 1966, c. 160, s. 5.

Regulations

21. The Lieutenant Governor in Council may make regulations,

(*a*) designating plants as noxious weeds generally or in respect of any municipality;

(*b*) prescribing the manner of and procedures for destroying noxious weeds and weed seeds, and providing for the circumstances and conditions under which noxious weeds and weed seeds may be destroyed under sections 13, 14 and 15;

(*c*) respecting the transportation of farm produce that is infested with noxious weeds or weed seeds;

(*d*) requiring methods and procedures that shall be taken to prevent the establishment of any noxious weed in any locality;

(*e*) respecting the location and size of a seed-cleaning plant and the equipment required in its operation;

(*f*) providing for the issue, renewal, suspension or revocation of or refusal to issue or renew licences for seed-cleaning plants and prescribing the fees payable for licences or the renewal thereof;

(*g*) providing for the reimbursement of municipalities by the Province of Ontario for any part of the moneys expended under this Act;

(*h*) prescribing forms and providing for their use;

(*i*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 427, s. 20, *amended*.

CHAPTER 494

The Welfare Units Act

Interpretation

1. In this Act,

(*a*) "administrator" means a public welfare administrator appointed under this Act;

(*b*) "Minister" means the Minister of Social and Family Services;

(*c*) "regulations" means the regulations made under this Act;

(*d*) "unit" means a welfare unit established under this Act. R.S.O. 1960, c. 428, s. 1, *amended*.

Establishment of municipal units

2. The council of any municipality may by by-law establish a unit which shall have the same territorial limits as the municipality, but no such by-law comes into force or has any effect until it has been approved by the Lieutenant Governor in Council. R.S.O. 1960, c. 428, s. 2.

Establishment of district units

3.—(1) A unit may be established for the unorganized territory in any territorial district.

Enlargement of district units

(2) The council of any municipality in a territorial district may by by-law, approved by the Lieutenant Governor in Council, become part of the district unit upon such terms and conditions, notwithstanding any Act, as may be provided in the by-law. R.S.O. 1960, c. 428, s. 3.

Administrator and staff

4. Where a municipal unit is established, the Lieutenant Governor in Council, with the consent of the council of the municipality, may appoint an administrator to administer such public welfare matters as are designated in the regulations, and such staff as the administrator may require for the due carrying out of his duties. R.S.O. 1960, c. 428, s. 4.

Costs

5.—(1) Where a municipal unit is established there shall be paid to the municipality establishing it an amount equal to 50 per cent of the cost of the administration of welfare matters under this Act.

How payable

(2) The amounts payable under this section shall be paid out of such moneys as may be appropriated therefor by the Legislature. R.S.O. 1960, c. 428, s. 5.

Disestablishment of welfare unit

6.—(1) Where a municipal unit has been established, the municipality may by by-law, or the Lieutenant Governor in Council may by order, disestablish the unit, provided that notice of intention to pass such by-law or make such order has been given to the clerk of the municipality or to the clerk of the Executive Council, as the case may be, at least three months before the by-law or order is to come into effect.

Effective date

(2) Any such by-law or order is effective on the 31st day of March next after its passing or making, as the case may be. R.S.O. 1960, c. 428, s. 6.

Regulations

7. The Lieutenant Governor in Council may make regulations,

(*a*) regulating and governing the establishment of units;

(*b*) designating the welfare matters that shall be administered by administrators;

(*c*) governing the qualifications of administrators and the members of their staffs;

(*d*) prescribing the powers and duties of the administrators;

(*e*) prescribing the manner of computing the cost of administration of welfare matters under this Act;

(*f*) prescribing the times and manner of payment of amounts under section 5;

(*g*) prescribing the records to be kept under this Act and prescribing the returns to be made to the Minister and the form thereof;

(*h*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 428, s. 7.

CHAPTER 495

The Wharfs and Harbours Act

Application of Act

1. This Act applies to every company heretofore or hereafter incorporated for constructing a pier or wharf, for dredging, deepening or making a harbour, or for the erection of a dry dock and marine railway connected therewith. R.S.O. 1960, c. 429, s. 1.

Company's right of detention and sale

2.—(1) The company may detain any goods, wares or merchandise, or any vessel, boat or craft until the tolls or charges thereon have been paid, and may sell any vessel, boat or craft for the charges for repairs thereof when such charges have remained unpaid for thirty days.

Sale of goods for dues

(2) Where the charges for wharfage or storage dues on goods, wares or merchandise have remained unpaid for thrity days, the company, after giving ten days notice of sale, may, by public auction, sell such goods, wares or merchandise or such part thereof as may be necessary to pay such charges or dues.

Return of surplus to owner

(3) The company shall pay the surplus, if any, or deliver such of the goods as remain unsold to the person entitled thereto. R.S.O. 1960, c. 429, s. 2.

Power of municipal corporation to hold shares and to vote

3. The corporation of the municipality in which any such work is to be constructed may subscribe for, acquire, hold and transfer shares in the company or may direct the head of the municipality to subscribe for such shares in the name of the corporation and to act for the corporation in all matters relating to such shares and the exercise of the rights of the corporation as a shareholder, and the head of the municipality, whether otherwise qualified or not, may vote and act in respect of such shares, subject to any rules and orders in relation to his authority made by the council, and according to his discretion in cases not provided for by the council. R.S.O. 1960, c. 429, s. 3.

Power of municipal corporation to purchase undertaking and assets

4. A company may sell to the corporation of any municipality in which the work is situate, and any such corporation may purchase the undertaking and assets of the company at the value agreed on between them, and the corporation shall in all respects thereafter stand in the place of the company and possess all its powers and authority. R.S.O. 1960, c. 429, s. 4.

CHAPTER 496

The White Cane Act

Interpretation

1. In this Act,

(*a*) "blind person" means a person,

(i) who is registered as blind with The Canadian National Institute for the Blind, or

(ii) who is in receipt of an allowance under *The Blind Persons' Allowances Act* or an allowance as a blind person under *The Family Benefits Act*; R.S.O. 1960, c. 35 R.S.O. 1970, c. 157

(*b*) "white cane" means a cane or walking-stick the major part of which is white. R.S.O. 1960, c. 430, s. 1.

Restriction on use of white cane

2. No person, other than a blind person, shall carry or use a white cane in any public place, public thoroughfare or public conveyance. R.S.O. 1960, c. 430, s. 2.

Offence

3. Every person who contravenes section 2 is guilty of an offence and on summary conviction is liable to a fine of not more than $25. R.S.O. 1960, c. 430, s. 3.

Application of Act

4.—(1) This Act does not apply to any person who is not a resident of Ontario.

Burden of proof

(2) Where in any prosecution the person charged with a contravention of this Act alleges that he is not a resident of Ontario, the burden of proving the allegation is upon him. R.S.O. 1960, c. 430, s. 4.

CHAPTER 497

The Wild Rice Harvesting Act

Interpretation

1. In this Act,

(*a*) "Crown lands" means lands owned by Her Majesty in right of Ontario, and includes lands covered with water;

(*b*) "Deputy Minister" means the Deputy Minister of Lands and Forests;

(*c*) "licence" means a licence issued under this Act;

(*d*) "Minister" means the Minister of Lands and Forests;

(*e*) "resident" means any person who has actually resided in Ontario for a period of twelve consecutive months immediately preceding the time that his residence becomes material under this Act. R.S.O. 1960, c. 431, s. 1.

Administration of Act

2. The administration of this Act is under the control and direction of the Minister. R.S.O. 1960, c. 431, s. 2.

Licences

3.—(1) Except under the authority of a licence, no person shall harvest or attempt to harvest wild rice on Crown lands.

No licence to non-residents

(2) No person who is not a resident shall have a licence.

Issue of licence

(3) The issue of a licence is in the direction of the Deputy Minister, subject to appeal to the Minister.

Terms and conditions

(4) A licence may be issued on such terms and conditions as are considered proper. R.S.O. 1960, c. 431, s. 3.

Regulations

4.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) governing the issue, form, renewal, transfer, refusal and cancellation of licences and prescribing the fees payable therefor;

(*b*) dividing Ontario or any part thereof into wild rice harvesting areas and designating such areas by identifying numbers and initials;

(*c*) prescribing royalties payable on wild rice harvested;

(*d*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Idem

(2) Any regulation made under subsection 1 may be general or particular in its application territorially or as to time or otherwise. R.S.O. 1960, c. 431, s. 4.

Offence

5. Every person who contravenes any of the provisions of this Act or the regulations or any term or condition of his licence is guilty of an offence and on summary conviction is liable to a fine of not more than $500. R.S.O. 1960, c. 431, s. 5, *amended*.

CHAPTER 498

The Wilderness Areas Act

Interpretation

1. In this Act,

(a) "Minister" means the Minister of Lands and Forests;

(b) "public lands" means the lands belonging to Her Majesty in right of Ontario, whether or not covered with water. R.S.O. 1960, c. 432, s. 1.

Establishment of wilderness areas

2. The Lieutenant Governor in Council may set apart any public lands as a wilderness area for the preservation of the area as nearly as may be in its natural state in which research and educational activities may be carried on, for the protection of the flora and fauna, for the improvement of the area, having regard to its historical, aesthetic, scientific or recreational value, or for such other purposes as may be prescribed. R.S.O. 1960, c. 432, s. 2.

Saving

3. Nothing in this Act or in the regulations made under this Act limits or affects the development or utilization of the natural resources in any wilderness area that is more than 640 acres in size. R.S.O. 1960, c. 432, s. 3.

Acquisition of land R.S.O. 1970, c. 393

4. Land may be acquired under *The Public Works Act* for the purposes of this Act. R.S.O. 1960, c. 432, s. 4.

Administration

5. Wilderness areas are under the control and management of the Minister. R.S.O. 1960, c. 432, s. 5.

Protection of wild life R.S.O. 1970, c. 186

6. Notwithstanding *The Game and Fish Act* and the regulations thereunder, the Minister may take such measures as he considers proper for the protection of fish, animals and birds in wilderness areas. R.S.O. 1960, c. 432, s. 6.

Regulations

7.—(1) The Lieutenant Governor in Council may make regulations,

(a) for the care, preservation, improvement, control and management of wilderness areas;

(b) for prohibiting or regulating and controlling the use of lands in wilderness areas;

(c) for prohibiting or regulating and controlling the admission of persons or domestic animals to wilderness areas and for issuing permits to persons to enter and travel in

wilderness areas and prescribing the terms and conditions thereof and the fee therefor;

(*d*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Idem (2) Any regulations under subsection 1 may be made applicable to all wilderness areas, to any wilderness area or to any part of a wilderness area. R.S.O. 1960, c. 432, s. 7.

Offence **8.** Every person who contravenes any regulation made under this Act or any term or condition of a permit issued under the regulations is guilty of an offence and on summary conviction is liable to a fine of not more than $500. R.S.O. 1960, c. 432, s. 8.

CHAPTER 499

The Wills Act

1. In this Act, Interpretation

(*a*) "land" includes messuages, and all other hereditaments, whether corporeal or incorporeal, chattels and other personal property transmissible to heirs, money to be paid out in the purchase of land, and any share of the same hereditaments and properties, or any of them, and any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and any possibility, right or title of entry or action, and any other interest capable of being inherited, whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency;

(*b*) "mortgage" includes any lien for unpaid purchase money, and any charge, encumbrance, or obligation of any nature whatever upon any land or tenements of a testator or intestate, and "mortgagee" has a meaning corresponding with that of mortgage;

(*c*) "personal estate" includes leasehold estates and other chattels real, and also money, shares of government and other funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property, except real estate, which by law devolves upon the executor or administrator, and any share or interest therein;

(*d*) "real estate" includes messuages, land, rents and hereditaments, whether freehold or of any other tenure, and whether corporeal, incorporeal or personal, and any undivided share thereof, and any estate, right, or interest (other than a chattel interest) therein;

(*e*) "will" includes a testament, and a codicil, and an appointment by will, or by writing in the nature of a will in exercise of a power, and also a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of *The Infants Act*, and any other testamentary disposition. R.S.O. 1960, c. 433, s. 1. R.S.O. 1970, c. 222

WILLS BEFORE 1ST JANUARY, 1874

2. Where a will made before, and not re-executed, republished or revived after the 1st day of January, 1874, by any person dying after the 6th day of March, 1834, contains a devise in any form of When real estate subsequently acquired may pass by the will

words of all such real estate as the testator dies seised or possessed of, or of any part or proportion thereof, such will is valid and effectual to pass any land acquired by the devisor, after the making of such will, in the same manner as if the title thereto had been acquired before the making thereof. R.S.O. 1960, c. 433, s. 2.

What estate deemed to pass by devise

3. Where land is devised in any such will it shall be considered that the devisor intended to devise all such estate as he was seised of in the same land, whether in fee simple or otherwise, unless it appears upon the face of such will that he intended to devise only an estate for life, or other estate less than he was seised of at the time of making the will containing such devise. R.S.O. 1960, c. 433, s. 3.

Witness need not subscribe in the presence of the testator

4. Any will affecting land executed after the 6th day of March, 1834, and before the 1st day of January, 1874, in the presence of and attested by two or more witnesses has the same validity and effect as if executed in the presence of and attested by three witnesses; and it is sufficient if the witnesses subscribed their names in the presence of each other, although their names were not subscribed in the presence of the testator. R.S.O. 1960, c. 433, s. 4.

Will by married woman between 4th May, 1859, and 1st January, 1874

5. After the 4th day of May, 1859, and before the 1st day of January, 1874, every married woman might, by devise or bequest executed in the presence of two or more witnesses, neither of whom was her husband, make any devise or bequest of her separate property, real or personal, or of any rights therein, whether such property was acquired before or after marriage, to or among her child or children issue of any marriage, and failing there being any issue, then to her husband, or as she might see fit, in the same manner as if she were sole and unmarried. R.S.O. 1960, c. 433, s. 5.

WILLS AFTER 1ST JANUARY, 1874

Operation of subsequent sections

6. Unless herein otherwise expressly provided, the subsequent sections of this Act do not extend to any will made before the 1st day of January, 1874; but every will re-executed or republished, or revived by any codicil, shall for the purposes of those sections, be deemed to have been made at the time at which the will was so re-executed, republished or revived. R.S.O. 1960, c. 433, s. 6.

Application of sections 21, 22, 25 and 26

7. Sections 21, 22, 25 and 26 do not apply to the will of any person who died before the 1st day of January, 1869, but do apply to the will of every person who died since the 31st day of December, 1868. R.S.O. 1960, c. 433, s. 7.

8. Subject to *The Devolution of Estates Act* and *The Accumulations Act*, every person may devise, bequeath, or dispose of by will, executed in manner hereinafter mentioned, all real estate and personal estate to which he may be entitled, at the time of his death, and which, if not so devised, bequeathed, or disposed of, would devolve upon his heirs or upon his executor or administrator, and the power hereby given extends to estates *pur autre vie*, whether there is or is not any special occupant thereof, and whether the same are corporeal or incorporeal hereditaments, and also to all contingent, executory, or other future interests in any real estate or personal estate, whether the testator is or is not ascertained as the person, or one of the persons, in whom the same may become vested, and whether he is entitled thereto under the instrument by which the same were created, or under any disposition thereof by deed or will, and also to all rights of entry for conditions broken and other rights of entry, and also to such of the same estates, interests and rights respectively, and other real estate and personal estate, as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will. R.S.O. 1960, c. 433, s. 8.

Power to dispose of all property
R.S.O. 1970, cc. 129, 5

9. A widow may, in like manner, bequeath the crop of her ground as well as of her dower as of other her real estate. R.S.O. 1960, c. 433, s. 9.

Widow's right to dispose of crop

10. Save as provided by section 13, no will made by any person under the age of twenty-one years is valid. R.S.O. 1960, c. 433, s. 10.

Wills by infants invalid

11.—(1) No will is valid unless it is in writing and executed in the manner hereinafter mentioned; that is to say, it shall be signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator; but no form of attestation is necessary.

Execution

(2) Every will, so far only as regards the position of the signature of the testator, or of the person so signing for him, is valid within the meaning of this Act if the signature is so placed, at, or after, or following or under, or beside, or opposite to the end of the will, that it is apparent on the face of the will that the testator intended to give effect by such signature to the writing signed as his will, and no such will is affected by the circumstance that the signature does not follow or is not immediately after the foot or end of the will, or by the circumstance that a blank space intervenes between the concluding word of the will and the signature, or by the circumstance that the signature is placed

Position of signature

among the words of the *testimonium* clause, or of the clause of attestation, or follows or is after or under the clause of attestation either with or without a blank space intervening, or follows, or is after, or under, or beside the names or one of the names of the subscribing witnesses, or by the circumstance that the signature is on a side, or page, or other portion of the paper or papers containing the will, whereon no clause or paragraph or disposing part of the will is written above the signature, or by the circumstance that there appears to be sufficient space on or at the bottom of the preceding side or page or other portion of the same paper on which the will is written to contain the signature, and the enumeration of the above circumstances does not restrict the generality of the above enactment; but no signature is operative to give effect to any disposition, or direction which is underneath, or which follows it, nor does it give effect to any disposition or direction inserted after the signature was made. R.S.O. 1960, c. 433, s. 11.

Exercise of appointments by will

12. No appointment made by will in exercise of any power is valid unless the appointment is executed in the manner hereinbefore required, and every will executed in the manner hereinbefore required is, so far as respects the execution and attestation thereof, a valid execution of a power of appointment by will, notwithstanding it has been expressly required that a will made in exercise of such power shall be executed with some additional or other form of execution or solemnity. R.S.O. 1960, c. 433, s. 12.

Will of members of the forces

13.—(1) The will of any member of the forces, or of any mariner or seaman when at sea or in course of a voyage, disposing of real or personal property, or both, may be made by a writing signed by him without any further formality or any requirement as to the presence of or attestation or signature by any witness.

Age of testator

(2) The fact that the member of the forces or the mariner or seaman is under the age of twenty-one years at the time he makes his will does not invalidate it. R.S.O. 1960, c. 433, s. 13 (1, 2).

Interpretation

(3) In this section, "member of the forces" means a member of the Canadian Armed Forces who, having been placed on active service or called out for training, service or duty, is serving in any of such forces. R.S.O. 1960, c. 433, s. 13 (3), *amended*.

Publication unnecessary

14. Every will executed in manner hereinbefore required is valid without any other publication thereof. R.S.O. 1960, c. 433, s. 14.

Effect of incompetency of witness

15. If any person who attests the execution of a will is, at the time of the execution thereof, or becomes at any time afterwards, incompetent to be admitted as a witness to prove the execution thereof, such will is not on that account invalid. R.S.O. 1960, c. 433, s. 15.

16. If any person attests the execution of any will to whom, or to whose wife or husband, any beneficial devise, legacy, estate, interest, gift, or appointment of or affecting any real estate or personal estate, other than and except charges and directions for the payment of any debt, is thereby given or made, such devise, legacy, estate, interest, gift, or appointment is, so far as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or such wife or husband, utterly null and void, and the person so attesting shall be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will. R.S.O. 1960, c. 433, s. 16. Gifts, etc., to witness invalid

17. In case, by any will, any real estate or personal estate is charged with any debt, and any creditor, or the wife or husband of any creditor, whose debt is so charged attests the execution of such will, the creditor, notwithstanding such charge, shall be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof. R.S.O. 1960, c. 433, s. 17. Creditor as witness

18. No person shall, on account of his being an executor of a will, be incompetent to be admitted as a witness to prove the execution of such will, or the validity or invalidity thereof. R.S.O. 1960, c. 433, s. 18. Executor as witness

19.—(1) In this section, Conflict of laws, interpretation

(*a*) an interest in land includes a leasehold estate as well as a freehold estate in land, and any other estate or interest in land whether the estate or interest is real property or is personal property;

(*b*) an interest in movables includes an interest in a tangible or intangible thing other than land, and includes personal property other than an estate or interest in land.

(2) Subject to the other provisions of this section, the manner and formalities of making, and the intrinsic validity and effect of a will, so far as the will relates to an interest in land, are governed by the law of the place where the land is situated. Interests in land

(3) Subject to the other provisions of this section, the manner and formalities of making, and the intrinsic validity and effect of a will, so far as the will relates to an interest in movables, are governed by the law of the place where the testator was domiciled at the time of his death. Interests in movables

(4) As regards the manner and formalities of making a will, so far as it relates to an interest in movables, a will made either in or out of Ontario is valid and admissible to probate if it is made in Idem

accordance with the law in force at the time of its making in the place where,

(*a*) the will was made; or

(*b*) the testator was domiciled when the will was made; or

(*c*) the testator had his domicile of origin.

Change of domicile

(5) A change of domicile of the testator occurring after a will is made does not render the will invalid as regards the manner and formalities of its making or alter its construction.

Construction of will

(6) Nothing in this section precludes resort to the law of the place where the testator was domiciled at the time of making a will in aid of its construction as regards an interest in land or an interest in movables.

Movables used in relation to land

(7) When the value of a thing that is movable consists mainly or entirely in its use in connection with a particular parcel of land by the owner or occupier of the land, succession to an interest in the thing, either under a will or an intestacy, is governed by the law of the place where the land is situated.

Application of section

(8) This section applies only to wills made on or after the 1st day of July, 1954.

Application of R.S.O. 1950, c. 426, s. 19

(9) Section 19 of *The Wills Act* as it appears in the Revised Statutes of Ontario, 1950 applies to wills made before the 1st day of July, 1954.

Re-executed wills

(10) For the purposes of this section, a will that is re-executed or that is revived by codicil shall be deemed to be made at the time at which it is so re-executed or revived. R.S.O. 1960, c. 433, s. 19.

Revocation by marriage

20. Every will made by any person dying on or after the 13th day of April, 1897, is revoked by the marriage of the testator, except,

(*a*) where it is declared in the will that the same is made in contemplation of such marriage;

(*b*) where the wife or husband of the testator elects to take under the will, by an instrument in writing signed by the wife or husband and filed within one year after the testator's death in the office of the Registrar of the Supreme Court;

(*c*) where the will is made in the exercise of a power of appointment and the real estate or personal estate thereby appointed would not in default of such appointment pass to the testator's heirs, executor or administrator, or the person entitled as the testator's next of kin under *The Devolution of Estates Act*. R.S.O. 1960, c. 433, s. 20.

R.S.O. 1970, c. 129

21. No will is revoked by any presumption of an intention on the ground of an alteration in circumstances. R.S.O. 1960, c. 433, s. 21. Change in circumstances

22. No will, or any part thereof, is revoked otherwise than as aforesaid provided by section 20, or by another will executed in the manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same by the testator, or by some person in his presence and by his direction with the intention of revoking the same. R.S.O. 1960, c. 433, s. 22. Revocation

23. No obliteration, interlineation or other alteration made in any will after the execution thereof is valid or has any effect, except so far as the words or effect of the will before such alteration are not apparent, unless such alteration is executed in like manner as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the testator and the subscription of the witnesses are made in the margin or in some other part of the will opposite or near to such alteration, or at the foot or end of, or opposite to, a memorandum referring to such alteration, and written at the end or in some other part of the will. R.S.O. 1960, c. 433, s. 23. Obliterations, interlineations, etc.

24. No will, or any part thereof, that has been in any manner revoked, is revived otherwise than by the re-execution thereof or by a codicil executed in the manner hereinbefore required and showing an intention to revive the same, and, where any will that has been partly revoked and afterwards wholly revoked is revived, such revival does not extend to so much thereof as was revoked before the revocation of the whole thereof, unless an intention to the contrary is shown. R.S.O. 1960, c. 433, s. 24. Revival

25. No conveyance or other act made or done subsequently to the execution of a will, of or relating to any real estate or personal estate therein comprised, except an act by which such will is revoked as aforesaid, prevents the operation of the will with respect to such estate, or interest in such real estate or personal estate, as the testator had power to dispose of by will at the time of his death. R.S.O. 1960, c. 433, s. 25. Operation of the will as to any interest left in testator

26.—(1) Every will shall be construed, with reference to the real estate and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will. Will to speak from death

(2) This section applies to the will of a married woman made during coverture, whether she is or is not possessed of or entitled Application of section

to any separate property at the time of making it, and any such will need not be re-executed or republished after the death of her husband. R.S.O. 1960, c. 433, s. 26.

Disposition of lapsed devise

27. Unless a contrary intention appears by the will, such real estate as is comprised or intended to be comprised in any devise in such will that fails or becomes void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise, if any, contained in such will. R.S.O. 1960, c. 433, s. 27.

Disposition of leaseholds under a general devise of real estate

28. A devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, and any other general devise that would describe a leasehold estate, if the testator had no freehold estate that could be described by it, shall be construed to include his leasehold estates, or any of them, to which such description will extend as well as freehold estates, unless a contrary intention appears by the will. R.S.O. 1960, c. 433, s. 28.

Disposition of property over which testator has a general power of appointment under general devise or bequest

29. A general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate or any real estate to which such description will extend, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will; and in like manner a bequest of the personal estate of the testator, or any bequest of personal estate described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description will extend, which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will. R.S.O. 1960, c. 433, s. 29.

Estate passing under devise without words of limitation
R.S.O. 1970, c. 129

30. Where any real estate is devised to any person without any words of limitation, such devise shall, subject to *The Devolution of Estates Act*, be construed to pass the fee simple or other the whole estate or interest that the testator had power to dispose of by will, unless a contrary intention appears by the will. R.S.O. 1960, c. 433, s. 30.

Meaning of "heir" in a devise of real estate

31. Where any real estate is devised by any testator, dying on or after the 5th day of March, 1880, to the heir or heirs of such testator, or of any other person, and no contrary or other intention is signified by the will, the words "heir" or "heirs" shall be construed to mean the person or persons to whom the real

estate of the testator, or of such other person as the case may be, would descend under the law of Ontario in case of an intestacy. R.S.O. 1960, c. 433, s. 31.

Import of words "die without issue", or to that effect

32. In any devise or bequest of real estate or personal estate, the words "die without issue", or "die without leaving issue", or "have no issue", or any other words that import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention appears by the will by reason of such person having a prior estate tail, or of a preceding gift, being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise; but this Act does not extend to cases where such words import if no issue described in a preceding gift be born, or if there be no issue who live to attain the age or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue. R.S.O. 1960, c. 433, s. 32.

Estate passing under devise to trustee or executor

33. Where any real estate is devised to a trustee or executor, such devise shall be construed to pass the fee simple or other the whole estate or interest that the testator had power to dispose of by will in such real estate, unless a definite term of years absolute or determinable, or an estate of freehold is thereby given to him expressly or by implication. R.S.O. 1960, c. 433, s. 33.

When devise to a trustee shall pass the whole estate beyond what is requisite for the trust

R.S.O. 1970, c. 129

34. Where any real estate is devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, is not given to any person for life, or such beneficial interest is given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall, subject to *The Devolution of Estates Act*, be construed to vest in such trustee the fee simple or other the whole legal estate that the testator had power to dispose of by will in such real estate, and not an estate determinable when the purposes of the trust are satisfied. R.S.O. 1960, c. 433, s. 34.

When devises in tail not to lapse

35. Where any person to whom any real estate is devised for an estate tail, or an estate in *quasi* entail, dies in the lifetime of the testator, leaving issue who would be inheritable under such entail, and any such issue are living at the time of the death of the testator, such devise does not lapse but takes effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will. R.S.O. 1960, c. 433, s. 35.

Substitutional gifts

36. Unless a contrary intention appears by the will, where a devise or bequest is made to a child, grandchild, brother or sister of the testator who dies before the testator and leaves issue surviving the testator, the devise or bequest does not lapse but takes effect as if it had been made directly to the persons among whom and in the shares in which the estate of that person would have been divisible,

(*a*) if that person had died immediately after the death of the testator;

(*b*) if that person had died intestate;

(*c*) if that person had died without debts; and

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(*d*) if sections 11 and 12 of *The Devolution of Estates Act* had not been passed. R.S.O. 1960, c. 433, s. 36; 1962-63, c. 144, s. 1.

Primary liability of real estate to satisfy specific charge

37.—(1) Where any person has died since the 31st day of December, 1865, or hereafter dies, seised of or entitled to any estate or interest in any real estate, which, at the time of his death, was or is charged with the payment of any sum of money by way of mortgage, and such person has not by his will or deed or other document, signified any contrary or other intention, the heir or devisee to whom such real estate descends or is devised is not entitled to have the morgage debt discharged or satisfied out of the personal estate, or any other real estate of such person, but the real estate so charged is, as between the different persons claiming through or under the deceased person, primarily liable to the payment of all mortgage debts with which the same is charged, every part thereof according to its value bearing a proportionate part of the mortgage debts charged on the whole thereof.

Consequence of general direction for payment of debts out of personalty or residue

(2) In the construction of a will to which this section relates, a general direction that the debts, or that all the debts, of the testator shall be paid out of his personal estate, or a charge or direction for the payment of debts upon or out of residuary real estate and personal estate or residuary real estate shall not be deemed to be a declaration of an intention contrary to or other than the rule in subsection 1, unless such contrary or other intention is further declared by words expressly or by necessary implication referring to all or some of the testator's debts charged by way of mortgage on any part of his real estate.

Saving of mortgagee's rights

(3) Nothing herein affects or diminishes any right of the mortgagee to obtain full payment or satisfaction of his mortgage debt, either out of the personal estate of the person so dying or otherwise, and nothing herein affects the rights of any person claiming under any will, deed or document made before the 1st day of January, 1874. R.S.O. 1960, c. 433, s. 37.

CHAPTER 500

The Wolf and Bear Bounty Act

Interpretation

1. In this Act,

(*a*) "county" includes a regional municipality;

(*b*) "Minister" means the Minister of Lands and Forests;

(*c*) "provisional judicial district" includes the provisional county of Haliburton;

(*d*) "regulations" means the regulations made under this Act. R.S.O. 1960, c. 434, s. 1; 1968-69, c. 139, s. 1.

WOLF BOUNTIES

Proof of killing by applicant

2. Where in any county a person has killed a timber or brush wolf and within a period of six months after the killing produces the whole skin before the treasurer of the county, a provincial judge or one of the persons designated by the Minister as wolf bounty officers, together with an affidavit in the prescribed form stating the place where and the date when the wolf was killed and that the wolf was not kept in captivity while it was under the age of three months, the treasurer, provincial judge or person aforesaid shall give to the person producing the skin a certificate in the prescribed form. R.S.O. 1960, c. 434, s. 2, *amended*.

Bounties payable by county

3. Upon the delivery of a certificate issued under section 2 by the person named therein to the treasurer of the county, together with the whole skin of the wolf, within a period of one month from the date of the certificate, the treasurer shall pay or cause to be paid to such person the sum of $25 as a bounty on either a timber or a brush wolf that is three months of age of over, and $15 as a bounty on either a timber or a brush wolf under the age of three months. R.S.O. 1960, c. 434, s. 3.

Repayment to county by Province of Ontario

4. Upon the delivery to the Minister by the treasurer of a county of a certificate issued under section 2 completed to the satisfaction of the Minister, together with the whole skin of the wolf, the corporation of the county is entitled to receive out of such moneys as may be appropriated by the Legislature for the payment of wolf bounty 40 per cent of the sum so paid. R.S.O. 1960, c. 434, s. 4.

Proof of killing in provisional judicial district

5.—(1) Where a timber or brush wolf has been killed in a provisional judicial district, the skin may be produced before a provincial judge, the clerk of the district court or one of the persons designated by the Minister as wolf bounty officers. R.S.O. 1960, c. 434, s. 5 (1), *amended*.

Certificate

(2) Upon the like proof as required in section 2, the person before whom the skin is produced may give the certificate mentioned in section 2, provided such skin is produced within a period of ten months after the killing, and upon the delivery of the certificate duly completed to the Minister, together with the whole skin, the person named in the certificate is entitled to receive out of such moneys as may be appropriated by the Legislature for the payment of wolf bounty the sum prescribed in section 3. R.S.O. 1960, c. 434, s. 5 (2).

Proof of killing

6. Where a timber or brush wolf has been killed in a provisional judicial district, except the Provisional Judicial District of Manitoulin, the unskinned head of the wolf may be produced instead of the whole skin of the wolf, in which case the unskinned head shall be deemed to be the whole skin for all purposes of this Act and the regulations. R.S.O. 1960, c. 434, s. 6.

Provincial parks

7. Where a claim is made for the payment of bounty for any wolf killed in a provincial park, the affidavit may be taken and the certificate may be given by the superintendent of such park or before any of the persons named in subsection 1 of section 5. R.S.O. 1960, c. 434, s. 7.

Disposal of skin

8.—(1) Before payment of the bounty to the corporation of the county or directly to the person killing the wolf, the whole skin shall be delivered to the Minister or to such person or persons as the Minister may designate for the purpose, and it becomes the property of the Crown and may be disposed of in such manner as may be prescribed by the regulations.

Mistaken presentation

(2) If it is determined by the person to whom a skin is delivered under subsection 1 that it is not the skin of a wolf, it thereupon becomes the property of the Crown in right of Ontario and may be disposed of in such manner as the Minister may direct. R.S.O. 1960, c. 434, s. 8.

Offence

9.—(1) Every person who presents or sends to the Minister for bounty, or who is a party to presenting or sending to the Minister for bounty, any wolf skin upon which the bounty has been paid, or the skin of any wolf taken or killed outside Ontario, is guilty of an offence and on summary conviction is liable to a fine of not less than $50 and not more than $200 in respect of every wolf skin so presented or sent, and in default of payment thereof shall be imprisoned for a term of not more than six months unless the fine is sooner paid.

(2) Upon conviction for an offence under subsection 1, every wolf skin in respect of which the offence was committed shall be forfeited to and becomes the property of the Crown in right of Ontario and may be disposed of in such manner as the Minister may direct. R.S.O. 1960, c. 434, s. 9. Forfeiture of skin

BEAR BOUNTIES

10.—(1) Sections 10 to 13 apply only to such geographical areas of Ontario as are prescribed by the regulations. Application

(2) No bounty shall be paid on bears killed in areas other than those prescribed in accordance with subsection 1 nor on bears killed in provincial parks, Indian reserves or Crown game preserves. R.S.O. 1960, c. 434, s. 10. Where no bounty

11.—(1) Subject to fulfilling the conditions prescribed in sections 10 to 13, where a person has killed a bear in any township of which not less than 25 per cent of the total area is devoted to agriculture, such person is entitled to a bear bounty. Must be agricultural area

(2) Where in any such township a person kills a bear and, Proof required

(*a*) within a period of three weeks after the killing produces the whole skin thereof before a provincial judge, justice of the peace, conservation officer or one of the persons designated by the Minister as bear bounty officers;

(*b*) produces to the officer an affidavit in the prescribed form stating,

(i) the place where the bear was killed,

(ii) the date when the bear was killed, and

(iii) that the bear was not kept in captivity previous to the date on which it was killed;

(*c*) proves to the satisfaction of the officer that the bear was killed between April 15th and November 30th in defence or preservation of live stock or property; and

(*d*) proves to the satisfaction of the officer that he was at the time of the killing a *bona fide* resident of the township in which the bear was killed, and that he was not at such time a tourist-outfitter or licensed guide, rendering service in such capacity to non-residents of the township,

the officer before whom the skin is produced shall give to the person producing it, a certificate in the prescribed form.

(3) Upon the issue of the certificate, the officer before whom the whole skin is produced shall stamp or mark the skin in the manner prescribed by the regulations and shall then return the skin to the person who killed the bear and it becomes his property. R.S.O. 1960, c. 434, s. 11, *amended*. Marking of skin

Amount of bounty

12. Upon the delivery to the Minister of an affidavit and certificate mentioned in section 11 completed to the satisfaction of the Minister, the person named is entitled to receive out of such moneys as may be appropriated therefor by the Legislature the sum of $10 as a bounty on a bear that is twelve months of age or over, and $5 as a bounty on a bear under the age of twelve months. R.S.O. 1960, c. 434, s. 12.

Offence

13.—(1) Every person who presents for bounty, or who is a party to presenting for bounty, any bear skin upon which the bounty has been paid, or the skin of any bear taken or killed outside the area to which sections 10 to 13 apply, is guilty of an offence and on summary conviction is liable to a fine of not less than $50 and not more than $200 in respect of every bear skin so presented, and in default of payment thereof shall be imprisoned for a term of not more than six months unless the fine is sooner paid.

Forfeiture of skin

(2) Upon conviction for an offence under subsection 1, every bear skin in respect of which the offence was committed shall be forfeited to and becomes the property of the Crown in right of Ontario and may be sold by the Minister. R.S.O. 1960, c. 434, s. 13.

GENERAL PROVISIONS

Payment of claims

14. Where the Minister is satisfied that the person who killed any wolf or bear or that the corporation of the county that has paid a wolf bounty is justly entitled to receive the bounty or to be reimbursed as provided in section 4, the Minister may make a requisition on the Treasurer of Ontario accordingly and a cheque shall be issued in payment thereof notwithstanding any defect in the affidavit or certificate or any doubt as to the authority of the officer taking such affidavit or giving such certificate, and in such case the Provincial Auditor shall forthwith, without further audit or examination, countersign the cheque. R.S.O. 1960, c. 434, s. 14.

Entitlement determined by Minister

15. The decision of the Minister on all questions of the entitlement to payment of a bounty and as to the age and classification of animals is final. R.S.O. 1960, c. 434, s. 15.

Taking affidavits

16. Any person authorized to give a certificate under this Act may take any affidavit required to be taken by any applicant for the purpose of obtaining such certificate. R.S.O. 1960, c. 434, s. 16.

Wolves and bears kept in captivity

17.—(1) Every person in possession or control of any live wolf or bear shall within ten days after coming into such possession or

control apply in writing to the Minister for a permit to keep it in captivity.

Issuance of permits

(2) The Minister may issue permits under this section in such form and subject to such terms and conditions as he may in his discretion consider proper.

Refusal and cancellation of permits

(3) The Minister may refuse to issue a permit under this section and may cancel any such permit at any time when it is shown to his satisfaction that the person to whom the permit was issued has failed to comply with the terms and conditions thereof.

Release from captivity

(4) Where a permit has been issued under subsection 2, the holder thereof shall not release the wolf or bear from captivity until he has obtained the approval in writing of the Minister.

Offences

(5) Every person who contravenes subsection 1 or who keeps any live wolf or bear in captivity after a permit therefor has been refused or cancelled is guilty of an offence and on summary conviction is liable to a fine of not less than $10 and not more than $100, and in default of payment of the fine shall be imprisoned for a term of not more than three months unless the fine is sooner paid.

Seizure of animals, cages, etc.

(6) Any live wolf or bear kept in captivity contrary to this section and any cage, pen, crate, shelter or other enclosure used in connection therewith may be seized and upon conviction of the person in possession or control thereof is forfeited to and becomes the property of the Crown in right of Ontario and may be disposed of in such manner as the Minister may direct.

Application of section

(7) This section does not apply where any live wolf or bear is kept in captivity in any public zoo or for scientific or educational purposes in any public institution. R.S.O. 1960, c. 434, s. 17, *amended*.

Burden of proof

18. Where in any action prosecution or other proceeding under this Act, a person claims that bounty is payable in respect of a wolf or bear skin and that such bounty has not been previously paid, the burden of proof is upon such person. R.S.O. 1960, c. 434, s. 18.

Regulations

19. The Lieutenant Governor in Council may make regulations,

(*a*) prescribing the form and contents of certificates and affidavits required for the purposes of this Act;

(*b*) prescribing the fees payable for any permit issued under this Act;

(*c*) prescribing the manner of marking or stamping any skin on which a bounty is paid;

(*d*) defining the geographical areas to which sections 10 to 13 shall apply;

(*e*) providing for the disposal of wolf skins on which bounty has been paid and wolf and bear skins forfeited to the Crown;

(*f*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 434, s. 19.

CHAPTER 501

The Women's Equal Employment Opportunity Act

Interpretation

1. In this Act,

(*a*) "board" means a board of inquiry appointed under this Act;

(*b*) "Director" means the Director of the Ontario Women's Bureau;

(*c*) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;

(*d*) "Minister" means the Minister of Labour or such other member of the Executive Council as this Act is assigned to by the Lieutenant Governor in Council;

(*e*) "person", in addition to the extended meaning given it by *The Interpretation Act*, includes an employment agency, an employers' organization and a trade union; R.S.O. 1970, c. 225

(*f*) "regulations" means the regulations made under this Act;

(*g*) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers. 1970, c. 33, s. 1.

Application of Act

2. Except as specifically exempted by this Act or the regulations, this Act applies in respect of the employment of all persons, whether male or female. 1970, c. 33, s. 2

Application of sections 4 to 10

3.—(1) Sections 4, 5, 6, 7, 8, 9 and 10 bind the Crown.

Idem

(2) Sections 4, 5, 6, 7, 8, 9 and 10 apply notwithstanding any agreement or waiver to the contrary.

Application of sections 4, 6, 7, 8

(3) Sections 4, 6, 7 and 8 do not apply in respect of an employer who employs fewer than six employees. 1970, c. 33, s. 3

Discrimination in employment

4. No person shall,

(*a*) refuse to refer or to recruit any person for employment;

(*b*) dismiss or refuse to employ or to continue to employ any person;

(*c*) refuse to train, promote or transfer an employee; or

(*d*) subject an employee to probation or apprenticeship or enlarge a period of probation or apprenticeship,

because of sex or marital status unless the work or the position cannot reasonably be performed by that person or employee because of sex or marital status. 1970, c. 33, s. 4.

Discrimination by employment agencies

5. No employment agency shall discriminate against any person because of sex or marital status in receiving, classifying, disposing of or otherwise acting upon applications for its service or in referring an applicant or applicants to an employer or anyone acting on his behalf. 1970, c. 33, s. 5.

Discrimination in employment classifications

6. No person shall establish or maintain any employment classification or category that, by its description or operation, excludes any person from employment or continued employment on the grounds of sex or marital status unless the work or the position cannot be reasonably performed by persons of that sex or marital status. 1970, c. 33, s. 6.

Discrimination in advancement

7. No person shall maintain separate lines of progression for advancement in employment or separate seniority lists that are based on sex or marital status where the maintenance will adversely affect any employee unless sex or marital status is a reasonable occupational qualification for the work. 1970, c. 33, s. 7.

Discriminatory advertising

8. No person shall publish or display or cause to be published or displayed or permit to be published or displayed any notice, sign, advertisement or publication that expressly limits a position to applicants of a particular sex or marital status. 1970, c. 33, s. 8.

Pregnancy leave

9.—(1) An employer shall not terminate the employment of an employee because of her pregnancy, but the employer, before or after the commencement of the period referred to in subsection 2, may require the employee to commence a leave of absence at such time as the duties of her position cannot reasonably be performed by a pregnant woman or the performance of the employee's work is materially affected by the pregnancy.

Idem

(2) Every employer shall, upon the request of an employee and receipt of a certificate by a legally qualified medical practitioner stating that the employee named therein is pregnant and specifying the date upon which delivery will occur in his opinion, grant of cause to be granted to the employee a leave of absence at any time during a period of six weeks immediately preceding the specified date and until the date of actual delivery.

Post-natal leave

(3) The employee shall not work and the employer shall not cause or permit her to work for at least six weeks after the date of

delivery or for such shorter period as, in the written opinion of a legally qualified medical practitioner, is sufficient.

(4) Where the employee reports for work upon the expiration of the period referred to in subsection 3, the employer shall permit her to resume work with no loss of seniority or benefits accrued to the commencement of the maternity leave. Preservation of seniority, etc.

(5) For the purposes of subsection 1, an employee shall produce, when so requested by the employer, the certificate referred to in subsection 2. Production of certificate

(6) This section does not apply in respect of an employer unless he employs twenty-five or more employees. Application of section: employers

(7) This section does not apply in respect of an employer unless the employee has worked continuously for her employer for at least one year prior to the commencement of the period of six weeks referred to in subsection 2. 1970, c. 33, s. 9. employees

10. No person shall, Reprisals

(*a*) refuse to employ or to continue to employ any person;

(*b*) threaten to dismiss or threaten to penalize in any other way any person in regard to such person's employment or any term or condition thereof;

(*c*) discriminate against any person in regard to such person's employment or any term or condition thereof; or

(*d*) intimidate or coerce or impose any pecuniary or other penalty upon any person,

on the ground that such person,

(*e*) has made or may make a complaint under this Act;

(*f*) has made or may make a disclosure concerning the matter complained of;

(*g*) has testified or may testify in a proceeding under this Act; or

(*h*) has participated or may participate in any other way in a proceeding under this Act. 1970, c. 33, s. 10.

11.—(1) There shall be a branch of the Department of Labour, to be known as the Ontario Women's Bureau, which shall consist of a Director and such other officers and employees as are considered necessary. Ontario Women's Bureau established

(2) The Bureau shall, subject to the direction and control of the Minister, Functions

(*a*) conduct research and educational programs for the purpose of improving the status and qualifications of women employees;

(*b*) promote the expansion of training and employment opportunities for women;

(*c*) inform and advise women in respect of training and employment;

(*d*) receive and investigate complaints of conduct in contravention of legislation providing for equal employment opportunity for women;

(*e*) enforce legislation providing for equal employment opportunity for women;

(*f*) perform any other duties given to it by any Act.

Director responsible to Minister

(3) The Director is responsible to the Minister for the administration of the Bureau. 1970, c. 33, s. 11.

Complaint

12.—(1) Any person who has reasonable grounds for believing that any person has contravened a provision of sections 4 to 9 may file with the Director a complaint in the form prescribed by the regulations.

Consent of person offended against

(2) Where a complaint is made in respect of an alleged contravention of section 4 or 9 by a person other than the person whom it is alleged was dealt with contrary to section 4 or 9, the Director may refuse to file the complaint unless the person alleged to be offended against consents thereto. 1970, c. 33, s. 12.

Inquiry and settlement

13.—(1) Where a complaint is filed, the Director or a person designated by the Director shall inquire into the complaint and endeavour to effect a settlement of the matter complained of.

Form of settlement

(2) A settlement incorporating agreement in respect of any matter that a board would be authorized to include in an order under section 22 may be entered into,

(*a*) in respect of a complaint involving a contravention of section 4 or 9 between the Director, the person who it is alleged has contravened section 4 or 9 and the person who it is alleged was dealt with contrary to section 4 or 9;

(*b*) in respect of a complaint involving a contravention of section 5, 6, 7 or 8 between the Director and the person who it is alleged has contravened such section,

and shall be in writing signed by the parties entering into it.

Settlement binding

(3) A settlement is binding on the parties entering into it and may be enforced in a court of competent jurisdiction.

Settlement after board proceedings commence

(4) A settlement may be entered into while the matter is the subject of a proceeding before a board, but such a settlement is not binding until it is approved by the board and the board may incorporate the settlement into its order, and the consideration by

the board of a settlement does not affect the competence of the board to continue its proceedings where it fails to approve the settlement.

Complaint upon contravention of settlement

(5) Where, in the opinion of the Director, a party to a settlement does not comply with its terms, the Director may file a complaint of the contravention and the matter may be disposed of in the same manner as other complaints.

Settlement superseded by order

(6) Where, after a settlement is entered into, an order of a board is made in respect of the same matter under subsection 4 or as a result of a complaint filed under subsection 5, the settlement is superseded by the order and no longer binding. 1970, c. 33, s. 13.

Appointment of board

14.—(1) Where it appears to the Director that a complaint will not be settled, the Director shall make a recommendation to the Minister as to whether or not a board should be appointed, and the Minister may, in his discretion, appoint a board of inquiry, consisting of one or more persons, to hear and decide the complaint.

Notice of appointment

(2) Forthwith after the appointment of a board of inquiry, the Minister shall communicate the names of the members of the board to,

(*a*) the Director; and

(*b*) any person, other than the Director, who is required by subsection 1 of section 15 to be a party to the proceedings,

and thereupon it shall be presumed conclusively that the board was appointed in accordance with this Act.

Administration of oaths

(3) A member of a board has power to administer oaths and affirmations for the purpose of any of its proceedings.

Remuneration of board

(4) The Lieutenant Governor in Council may determine the rate of remuneration of the chairmen and members of the boards of inquiry appointed under this section. 1970, c. 33, s. 14.

Parties

15.—(1) The parties to a proceeding before a board of inquiry with respect to any complaint shall be,

(*a*) the Director, who shall have the carriage of the complaint;

(*b*) the person named in the complaint as the complainant;

(*c*) any person named in the complaint and alleged to have contravened this Act;

(*d*) any person, other than the person mentioned in clause *b*, named in the complaint and alleged to have been dealt with contrary to section 4 or 9 of this Act; and

(e) any other person specified by the board upon such notice as the board may determine and after being given an opportunity to be heard against his joinder as a party.

Notice of hearing

(2) The board shall fix a date for the hearing and shall serve notice of the hearing on the parties at least ten days before the day fixed.

Contents of notice of hearing

(3) The notice of hearing shall contain,

(a) a statement of the time and place of the hearing;

(b) a statement of the statutory power under which the hearing is to be held;

(c) a statement as to where and how further information about the proceedings may be obtained;

(d) a concise statement of the issues; and

(e) a statement that, if a party who has been duly notified does not attend at the hearing, the board may proceed in his absence and he is not entitled to notice of any further proceedings.

Service of complaint

(4) A true copy of the complaint shall be annexed to the notice of the hearing that is served upon any party except the Director.

Effect of non-attendance

(5) If a person who has been duly notified of a hearing does not attend, the board may proceed in his absence. 1970, c. 33, s. 15.

Adjournments

16.—(1) A hearing may be adjourned from time to time by the board on reasonable grounds,

(a) on its own motion; or

(b) on the motion of any party to the hearing.

Summonses

(2) The board may, in the form prescribed by the regulations, command the attendance before it of any person as a witness.

Evidence

(3) The board may require any person,

(a) to give evidence on oath at a hearing; and

(b) to produce such documents and things as the board may require.

Protection for witnesses

(4) A witness at a hearing shall be deemed to have objected to answer any question asked him upon the ground that his answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence.

Unsworn evidence

(5) The board may admit evidence not given under oath.

(6) Any person who, without lawful excuse, Contempt proceedings

(a) on being duly summoned as a witness before the board, makes default in attending; or

(b) being in attendance as a witness before the board refuses to take an oath legally required by the board to be taken, or to produce any document or thing in his power or control legally required by the board to be produced by him, or to answer any question to which the board may legally require an answer; or

(c) does any other thing that would, if the board had been a court of law having power to commit for contempt, have been contempt of that court,

is guilty of an offence punishable under subsection 7.

(7) The board may certify an offence under subsection 6 to the High Court and that court may thereupon inquire into the offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of court. 1970, c. 33, s. 16. Offence

17. A party to a proceeding may at a hearing, Rights of parties to counsel, to examine witnesses, etc., at hearings

(a) be represented by counsel or an agent;

(b) call and examine witnesses and present his arguments and submissions;

(c) conduct cross-examination of witnesses reasonably required for a full and fair disclosure of the facts in relation to which they have given evidence. 1970, c. 33, s. 17.

18.—(1) A witness at a hearing is entitled to be advised by his counsel or agent as to his rights, but such counsel or agent may take no other part in the hearing without leave of the board. Rights of witnesses to counsel

(2) Where a hearing is *in camera,* a counsel or agent for a witness is not entitled to be present except when that witness is giving evidence. 1970, c. 33, s. 18. Idem

19. All hearings shall be open to the public except where the board finds that intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public in which case the board may hold the hearing concerning any such matters *in camera.* 1970, c. 33, s. 19. Hearings open to public

Release of documents

20. Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the board within a reasonable time after the matter in issue has been finally determined. 1970, c. 33, s. 20.

Record

21. All oral evidence received by the board shall be taken down in writing and together with,

(*a*) the notice of hearing;

(*b*) the complaint;

(*c*) any rulings or orders made in the course of the proceedings of the board;

(*d*) any written submissions received by the board; and

(*e*) the decision and the reasons therefor,

form the record. 1970, c. 33, s. 21.

Order of board

22.—(1) The board after hearing a complaint,

(*a*) shall decide whether or not any party has contravened this Act; and

(*b*) may make an order under subsection 2.

Idem

(2) Where the board decides that any party has contravened any provision of sections 4 to 9, the board may order,

(*a*) such party to do any act or thing that, in the opinion of the board, constitutes full compliance with such provision; and

(*b*) where a person has been dealt with contrary to a provision of section 4 or 9, the board may order such party to rectify any injury caused such person or to make compensation therefor.

Majority decision

(3) Where a board of inquiry is composed of more than one person, the decision of the majority is the decision of the board. 1970, c. 33, s. 22.

Decision

23.—(1) The board shall give its final decision in writing and shall give reasons in writing therefor if requested by a party.

Reasons

(2) The reasons for the decision shall contain,

(*a*) the findings of fact on the evidence and any information or knowledge used in reaching the decision;

(*b*) any agreed findings of facts; and

(*c*) the conclusions of law based on the findings mentioned in clauses *a* and *b*.

Service

(3) The board shall cause to be served on the parties a copy of its order, including the reasons therefor, if any, and a notice stating the rights of appeal. 1970, c. 33, s. 23.

24.—(1) Any party to the hearing before a board may appeal from the order of the board to the Court of Appeal and the practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the High Court. Appeal

(2) The record in the Court of Appeal shall include all of the documents and things specified in section 21. Record

(3) The Minister may designate counsel to assist the court upon the hearing of an appeal under this section. Counsel

(4) An appeal under this section may be made on questions of law or fact or both and the court may confirm or alter the decision of the board or direct the board to make any decision or order that the board is authorized to make under this Act and as the court considers proper, and the court may substitute its opinion for that of the board and may exercise the same powers as it exercises on an appeal from a judge of the High Court sitting without a jury. 1970, c. 33, s. 24. Jurisdiction of court

25. A copy of the final order of the board, exclusive of the reasons therefor, certified under section 32 may be filed in the office of the Registrar of the Supreme Court whereupon it shall be entered in the same way as a judgment or order of that court and is enforceable as such. 1970, c. 33, s. 25. Enforcement of decisions

26. The Director may require any employer to post such notices respecting the administration and content of this Act as the Director may direct, and the employer shall post and keep posted such notices in a conspicuous place frequented by his employees. 1970, c. 33, s. 26. Posting notices

27.—(1) Every employer shall, Production of records

(*a*) in respect of an employee, produce the records required by this Act or the regulations or by section 38 of *The Employment Standards Act* for inspection by the Director or any person authorized by the Minister, and shall for this purpose provide access to his premises for the Director or such person at all reasonable times and at any time his employees are engaged in their work; and R.S.O. 1970, c. 147

(*b*) furnish such information from the records at such time and place as the Director may require.

(2) The Director or any person designated to inquire into a complaint under subsection 1 of section 13 has the same powers to inspect and examine books, payrolls and other records in respect of an employee and to take extracts or copies thereof, and to enter premises and to question employees as are possessed by the Director of Employment Standards under section 40 of *The Employment Standards Act.* 1970, c. 33, s. 27. Inspection

Notice to furnish information

28.—(1) Where the Director is authorized under this Act or the regulations to require a person to furnish information, the Director may require the information to be furnished by a notice to that effect served personally or sent by registered mail addressed to the latest known place of abode of the person for whom the notice is intended, and such person shall furnish the information within such reasonable time as is specified in the notice.

Proof of service

(2) A certificate of the Director certifying that the notice was sent by registered mail to the person to whom it was addressed, accompanied by and identifying the post office certificate of the registration and a true copy of the notice is admissible in evidence as *prima facie* proof of the mailing and receipt of the notice.

Proof of failure to comply

(3) Where the Director is authorized to require a person to furnish information under this Act, a certificate of the Director certifying that the information has not been furnished is admissible in evidence as *prima facie* proof that in such case the person did not furnish the information.

Proof of documents

(4) A certificate of the Director certifying that a document annexed thereto is a document or true copy of a document made by or on behalf of the Director is admissible in evidence as *prima facie* proof of the nature and contents of the document and shall be received in evidence in the place and stead of the original and has the same force and effect as the original document would have had if produced and proved.

Proof of authority

(5) A certificate under this section signed or purporting to be signed by the Director is admissible in evidence as *prima facie* proof of the facts stated therein and of the authority of the person giving or making the certificate without any proof of appointment or signature. 1970, c. 33, s. 28.

Service

29. Subject to the Rules of the Supreme Court respecting an appeal thereto, the service of any notice or document required for any of the purposes of this Act shall be effected by prepaid post or by personal service in the manner prescribed for the service of summonses by section 6 of *The Summary Convictions Act,* which applies *mutatis mutandis.* 1970, c. 33, s. 29.

R.S.O. 1970, c. 450

Penalty

30.—(1) Every person who,

(*a*) contravenes any provision of this Act or the regulations; or

(*b*) fails to comply with any order of a board under this Act,

is guilty of an offence and on a summary conviction is liable,

(*c*) if an individual, to a fine of not more than $800; or

(*d*) if a corporation, trade union, employers' organization or employment agency, to a fine of not more than $3,000.

(2) No prosecution for an offence under subsection 1 shall be instituted except with the consent in writing of the Minister. Consent of Minister

(3) A prosecution for an offence under subsection 1 may be instituted against a trade union or employers' organization in the name of the union or organization, and any act or thing done or omitted by an officer, official or agent of a trade union or employers' organization within the scope of his authority to act on behalf of the trade union or employers' organization shall be deemed to be an act or thing done or omitted by the trade union or employers' organization. Prosecution of trade union, etc.

(4) In any prosecution for a contravention of any provision of this Act or the regulations, it shall be a sufficient defence if the defendant shows that the contravention occurred in the course of compliance with any provision for the protection or welfare of women and young girls contained in *The Industrial Safety Act* or *The Employment Standards Act*. 1970, c. 33, s. 30. Defence R.S.O. 1970, cc. 220, 147

31.—(1) Where a person has been convicted of an offence under section 30, the Minister may apply by way of originating notice to a judge of the Supreme Court for an order prohibiting such person from continuing the conduct constituting the offence. Restraining order

(2) The judge in his discretion may make such order and the order may be entered and enforced in the same manner as any other order or judgment of the Supreme Court. 1970, c. 33, s. 31. Enforcement

32. A certificate purporting to be signed by a member of a board certifying that a document annexed thereto is a true copy of an order of the board is admissible in evidence in any proceeding as *prima facie* proof of the contents of the order without proof of the signature or the official position of the person appearing to have signed the certificate. 1970, c. 33, s. 32. Certified copies of orders

33.—(1) The Lieutenant Governor in Council may make regulations, Regulations

(*a*) exempting any class of employers or employees from the application of this Act or the regulations or any provision thereof;

(*b*) prescribing the records that shall be kept and the returns that shall be made by employers;

(*c*) governing the production and inspection of records required to be kept by employers;

(*d*) requiring employers to notify employees of the provisions of this Act and the regulations by the publication of such notices in such manner as may be prescribed;

(*e*) providing for the establishment of a consultative or advisory committee to advise the Minister on any

matters arising in relation to the administration of this Act;

(*f*) prescribing forms and providing for their use.

Idem (2) A regulation made under subsection 1 or any provision thereof may be confined in its application to any class of employer or employee defined in the regulation. 1970, c. 33, s. 33.

Moneys **34.** The moneys necessary for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. 1970, c. 33, s. 34, *amended*.

CHAPTER 502

The Woodlands Improvement Act

Interpretation

1. In this Act,

R.S.O. 1970, c. 181

(*a*) "foresty purposes" means forestry purposes as defined in *The Forestry Act*;

(*b*) "improvement of the woodlands" does not include any treatment that will produce immediate revenue;

(*c*) "management program" means a report of the existing forest resources and on the proposed silvicultural and marketing program;

(*d*) "Minister" means the Minister of Lands and Forests;

(*e*) "nursery stock" means nursery stock as defined in *The Forestry Act*;

(*f*) "owner" means registered owner in fee simple;

(*g*) "regulations,, means the regulations made under this Act;

(*h*) "woodlands" means lands having at least 400 trees per acre of all sizes or at least 300 trees per acre measuring over two inches in diameter or at least 200 trees per acre measuring over five inches in diameter or at least 100 trees per acre measuring over eight inches in diameter (all such measurements to be taken at four and one-half feet from the ground), but does not include a plantation established for the purpose of producing Christmas trees. 1966, c. 161, s. 1.

Agreements as to forestry development

2. Subject to the regulations, the Minister may, upon such terms and conditions as he considers proper, enter into agreements with the owners of lands that are suitable for forestry purposes and that are situate in a private forest management area for the planting of nursery stock or the improvement of the woodlands on such lands. 1966, c. 161, s. 2.

Cutting of trees

3. Where an owner of land enters into an agreement under section 2, he shall not cut or remove any trees growing on the land covered by the agreement except in accordance with the management program under the agreement. 1966, c. 161, s. 3.

Termination of agreement and recovery of cost

4. Where an owner of land who has entered into an agreement under section 2 violates or fails to observe any provision of the agreement or this Act, the Minister may terminate the agreement

and may recover from the owner in any court of competent jurisdiction the cost of the planting of nursery stock or the improvement of the woodlands determined at the rate fixed by the regulations. 1966. c. 161, s. 4.

Regulations

5.—(1) The Lieutenant Governor in Council may make regulations,

(*a*) fixing the cost of the planting of nursery stock and the cost of improvement of the woodlands that are recoverable by the Minister under section 4;

(*b*) prescribing the maximum sum per acre that the Minister may expend under agreements entered into under section 2;

(*c*) designating parts of Ontario as private forest management areas.

Idem, limited effect

(2) Any regulation may be limited to one or more private forest management areas. 1966, c. 161, s. 5.

CHAPTER 503

The Woodmen's Employment Act

Interpretation

1. In this Act,

(*a*) "Crown timber" means trees standing, growing or being on ungranted public lands or on other lands where the timber thereon or any portion thereof is the property of the Crown;

(*b*) "Department" means the Department of Lands and Forests;

(*c*) "employees" means persons in the employ of an operator or in the employ of any person carrying on work under a contract, subcontract or other arrangement or agreement authorized by or relating back to the licence, permit, contract, agreement or other instrument granted or made by the Crown under which the operator enjoys the right to cut and remove Crown timber;

(*d*) "Minister" means the Minister of Lands and Forests;

(*e*) "operator" means any person holding a licence, permit, contract, agreement or other instrument granted or made by the Crown under which exists the right to cut and remove Crown timber. R.S.O. 1960, c. 435, s. 1.

Appointment of inspector

2.—(1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may appoint an inspector under this Act.

Who may be appointed

(2) Such office may be assigned to some person performing other duties in the Department unless the duties are so onerous as to require a separate appointment.

Assistant inspectors

(3) The Minister or the Deputy Minister of Lands and Forests may appoint any Crown timber agent or other officer of the public service of Ontario to be an assistant inspector, and such assistant inspector has the same duties and powers as the inspector and shall act for such period of time as may be authorized by the Minister or Deputy Minister. R.S.O. 1960, c. 435, s. 2.

Duties of inspector, investigations

3. It is the duty of the inspector to investigate from time to time as may be directed by the Minister or the Deputy Minister of Lands and Forests the undertaking or operations of any operator or of any person carrying on work under a contract or subcontract or other arrangement or agreement authorized by or relating back to the licence, permit, contract, agreement or other instrument

granted or made by the Crown under which the operator enjoys the right to cut and remove Crown timber, and such investigation shall be made with reference to,

wages and hours of labour

(*a*) the computation of the wages or earnings of employees, the hours and times of working, and the method of paying such wages or earnings;

food supplies

(*b*) the sufficiency and wholesomeness of food supplied to employees whether such food is supplied as part of the wages or earnings of such employees or is paid for in cash by such employees, or is deducted from the wages or earnings of such employees;

charges for supplies

(*c*) the prices charged for meals, living accommodation, clothing, boots, supplies, tools, tobacco and any other article sold to, provided for or offered for sale to employees;

deductions for services

(*d*) the amount charged against or deducted from the wages or earnings of employees for medical, dental, transportation or other services or facilities of any nature whatsoever;

assessments

(*e*) the assessments, levies, fines, penalties or other deductions charged against the wages or earnings of any employee;

camp quarters

(*f*) the rooms, tents, cabins, houses, camps or other places of accommodation provided for the living or working places of employees and the sanitary conditions thereof, or of any storehouse, kitchen, diningroom or other places used for the preparation, storing and serving of food;

contracts

(*g*) the details of any contract, subcontract, arrangement whether written or otherwise, the carrying out of which involves in any manner the employment of any person;

labour conditions

(*h*) the conditions under which employees labour, the hazards to which employees are subjected in the course of work, and the methods employed in carrying out timbering and lumbering operations;

other matters

(*i*) such other matters respecting woodmen's employment as may be directed by the Minister or the Deputy Minister of Lands and Forests. R.S.O. 1960, c. 435, s. 3.

Responsibility of operators

4. Every operator is responsible to the Crown for all things done or required to be done in the course of carrying out the timbering or other operations authorized under the licence, permit, contract, agreement or other instrument held by such operator, notwithstanding that such operator by contract, agreement, permit or other instrument, or in any other manner, has

authorized or permitted work to be undertaken or performed, or services to be supplied by contractors, subcontractors, permittees, jobbers or by any other person whatsoever. R.S.O. 1960, c. 435, s. 4.

Report of inspector

5. The inspector shall transmit to the Minister a report as soon as practicable after each investigation made by him, and the Minister, upon receipt of the report, may make such recommendations to the operator or operators referred to therein or to the Lieutenant Governor in Council as the Minister may consider advisable. R.S.O. 1960, c. 435, s. 5.

Regulations

6. The Lieutenant Governor in Council may make regulations respecting any of the several matters made the subject of investigation under this Act, or respecting the procedure to be followed in carrying out the provisions of this Act. R.S.O. 1960, c. 435, s. 6.

Powers of inspector re:

7. The inspector for the purpose of making an investigation under this Act has power,

entry upon lands, etc.

(*a*) to enter upon any land and premises of any operator and to examine the interior of any room, tent, cabin, house or other place of accommodation provided for the living or working places of employees, and of any kitchen, dining-room, storeroom or other place used for the preparation, serving and storing of food;

summoning of witnesses

(*b*) to summon any person to attend as a witness before him with or without the production of documents, payrolls, price lists, diet sheets, shanty books or other books or documents relevant to the investigation, and in the case of any person so summoned refusing to attend after payment or tender of his proper fees, application may be made in a summary way to a justice of the peace having jurisdiction in the city, town or district wherein the investigator may be sitting, for an order compelling such attendance, and such justice of the peace may make such order as might be made in any case wherein such justice has power to compel appearance before him in pursuance of *The Summary Convictions Act*; and R.S.O. 1970, c. 450

administration of oaths

(*c*) to administer an oath to any person attending as a witness before him and to examine such person on oath or affirmation. R.S.O. 1960, c. 435, s. 7.

Power of keeping order during hearing

8. The inspector during the taking of *viva voce* evidence shall sit and conduct himself as in open court and for the purpose of preserving order during the taking of such evidence has all the powers of a judge of a county or district court, except the power of committing for contempt. R.S.O. 1960, c. 435, s. 8.

Witness fees

9. Witnesses are entitled to the same fees as in a small claims court. R.S.O. 1960, c. 435, s. 9, *amended*.

Irregularity in form not to invalidate

10. No proceeding under this Act is invalid by reason of any defect of form or technical irregularity. R.S.O. 1960, c. 435, s. 10.

CHAPTER 504

The Woodmen's Lien for Wages Act

Interpretation

1. In this Act,

(*a*) "bailiff" includes a constable who under *The Small Claims Courts Act* may execute an attachment or perform other service; R.S.O. 1970, c. 439

(*b*) "labour" means cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber, and includes any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith;

(*c*) "logs or timber" means logs, cordwood, timber, cedar posts, telegraph poles, railroad ties, tan bark, pulpwood, shingle bolts, and staves, or any of them. R.S.O. 1960, c. 436, s. 1.

Application of Act

2. This Act applies only to the provisional county of Haliburton and to the provisional judicial districts. R.S.O. 1960, c. 436, s. 2.

Proceedings in provisional county of Haliburton

3. Where in this Act any act is required to be done by or any paper to be filed or proceedings taken in the office of the clerk of the district court of a district or jurisdiction is conferred upon a district court or the judge thereof, the like acts may be done, papers filed and proceedings taken by and in the office of the clerk of the county court of the county of Victoria, and the like jurisdiction may be exercised by that court or a judge thereof in respect of matters arising in the provisional county of Haliburton. R.S.O. 1960, c. 436, s. 3.

Contracts waiving application of Act to be void

4.—(1) Every agreement, verbal or written, express or implied, on the part of any person employed in labour that this Act is not to apply, or that the remedies provided by it are not to be available for the benefit of such person, is void.

Exceptions

(2) This section does not apply to any manager, officer or foreman, or to any person whose wages are more than $3 a day. R.S.O. 1960, c. 436, s. 4.

Lien for labour on logs or timber

5.—(1) A person performing labour has a lien upon the logs or timber in connection with which the labour is performed for the amount due for such labour, and the lien has precedence over all

other claims or liens thereon, except a claim or lien of the Crown for any dues or charges or that a timber slide company or any owner of a slide or boom may have thereon for tolls.

Contractors, with respect to labour or services to be performed on timber

(2) A contractor who has entered into any agreement under the terms of which he himself or by others in his employ has cut, removed, taken out or driven logs or timber, shall be deemed to be a person performing labour upon logs or timber within the meaning of this section, and such cutting, removal, taking out and driving shall be deemed to be the performance of labour within the meaning of this section. R.S.O. 1960, c. 436, s. 5.

Lien to cease unless proceedings taken

6. The lien ceases unless the claim therefor is filed and proceedings are taken to enforce the claim as hereinafter provided. R.S.O. 1960, c. 436, s. 6.

Claim of lien to be filed

7.—(1) The person claiming the lien shall state his claim in writing in Form 1, setting out briefly the nature of the claim, the amount claimed to be due and a description of the logs or timber upon which the lien is claimed.

Verified by affidavit

(2) The claim shall be verified by the affidavit of the claimant, his solicitor or agent in Form 2.

Time for filing claim, contractors

(3) In the case of a contractor coming within subsection 2 of section 5, the claim and affidavit shall be filed on or before the 1st day of September next following the performance of the labour.

wage-earners

(4) In other cases, if the labour was performed between the 1st day of October and the 1st day of April next thereafter, the claim shall be filed on or before the 30th day of the same month of April, but if the labour was performed on or after the 1st day of April and before the 1st day of October in any year the claim shall be filed within thirty days after the last day on which such labour or any part thereof was performed. R.S.O. 1960, c. 436, s. 7.

Place for filing claim

8.—(1) Except as hereinafter provided, the claim and affidavit shall be filed in the office of the district court of the provisional judicial district in which the labour or some part thereof was performed.

Where labour performed in certain localities

(2) Where the labour was performed upon logs or timber got out to be run down or that have been run down any of the rivers or streams flowing into Georgian Bay, Lake Huron, Lake Superior, Lake of the Woods, Rainy Lake, Rainy River or Pigeon River, the claim may, at the option of the claimant, be filed in the office of the clerk of the district court of the district in which the labour was performed or in the office of the clerk of the district court of the district in which the drive terminates or reaches the waters of such bay, lake or river.

(3) Where the labour or some part of it was performed in the provisional county of Haliburton, the claim may be filed in the office of the clerk of the county court of the county of Victoria. R.S.O. 1960, c. 436, s. 8. In Haliburton

9. No sale or transfer of the logs or timber during the time limited for the filing of the claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, affects the lien, but the lien remains in force against the logs or timber in whosesoever possession the logs or timber are found. R.S.O. 1960, c. 436, s. 9. Sale not to affect lien

10.—(1) Any person having a lien upon logs or timber may enforce the lien by suit, where the claim does not exceed $400, in the small claims court within whose jurisdiction the logs or timber or any part thereof may be at the time of the commencement of the suit, or, where the claim exceeds $400, in the proper district court where the claim is filed, and the suit may be commenced to enforce the lien, if the claim is then payable, immediately after the filing of the claim, or, if credit has been given, immediately after the expiry of the period of credit, and the lien shall cease unless the proceedings to enforce it are commenced within thirty days after the filing of the claim or after the expiry of the period of credit. R.S.O. 1960, c. 436, s. 10 (1), *amended*. Enforcement of liens by suit in district or small claims courts

(2) In all such suits, the person liable for the payment of the claim shall be made the party defendant. Defendant

(3) Where the defendant is not the owner of the logs, a copy of the writ shall be served on the owner as well as the defendant, or the person or agent in whose possession custody or control they may be found, or the person in charge of the operations in respect of which the claim of lien arose. On whom writ to be served

(4) The owner may, on his own application or by direction of the judge, be made a party defendant. R.S.O. 1960, c. 436, s. 10 (2-4). Owner may be made defendant

11.—(1) There shall be attached to or endorsed upon the writ or summons a copy of the claim filed, and no statement of claim is necessary unless ordered, and no pleading or notice of dispute or defence other than such as is required in a suit or proceeding in a small claims court is necessary whether the suit is brought in a district court or in a small claims court. Procedure

(2) Where no dispute or defence is filed, judgment may be signed and execution issued. Where no defence filed

(3) The court or judge may order particulars to be given or amendments to be made or may add or strike out the names of parties and may set aside judgment and permit a dispute or defence to be filed on such terms as may appear just. Powers of court

Form of writ and practice

(4) The writ or summons shall be in the form, as nearly as may be, of that in use in the court in which it is issued, but the practice thereafter shall follow as nearly as may be that of the small claims court.

Service of process

(5) A writ or summons may be served anywhere in Ontario in the same manner as in other cases.

Form of judgment

(6) The judgment shall declare that the judgment is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case. R.S.O. 1960, c. 436, s. 11, *amended*.

Procedure subsequent to execution in certain cases

12. Where an execution has been placed in the hands of a sheriff or bailiff for execution and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution, and the proceedings relating to proof of other claims and the payment of money into court and the distribution of the money and otherwise shall, as far as practicable, be the same as is hereinafter provided for proceedings upon and subsequent to an attachment. R.S.O. 1960, c. 436, s. 12.

Procedure attachment in first instance

13.—(1) Where an attachment issues in the first instance, the statement of claim and defence and proceedings to judgment shall be the same as where a suit has been begun by writ or summons.

Where attachment after action

(2) Where an attachment issues after proceedings have been commenced by writ or summons, the proceedings, except such as are necessary to be taken under the attachment, shall be carried to judgment under the writ or summons. R.S.O. 1960, c. 436, s. 13.

Forms of attachment

14. The forms of attachment shall be as nearly as may be the same as are in use in the district courts or in the small claims courts. R.S.O. 1960, c. 436, s. 14, *amended*.

Summary disposal of cases

15.—(1) Whether the proceedings are commenced by writ or summons or attachment, the judge may direct that the proceedings shall be disposed of summarily by him without waiting for the regular sittings of the court, upon such terms as to notice and otherwise as he considers proper, and the proceedings may be so disposed of.

Powers of judge

(2) The judge may set aside an attachment or seizure or direct the release of logs or timber that have been seized on such terms as he considers proper. R.S.O. 1960, c. 436, s. 15.

When attachment to issue from small claims court

16. Where the amount of the claim does not exceed $400 and is not less than $10, upon the production and filing of a copy of the claim and affidavit and an affidavit of the claimant verifying the claim and showing that the claim has been filed and stating,

(*a*) that he has good reason to believe and does believe that the logs or timber are about to be removed out of Ontario; or

(*b*) that the person indebted has absconded from Ontario with intent to defraud or defeat his creditors; or

(*c*) that he has good reason to believe and does believe that the person indebted is selling or otherwise disposing of the logs or timber, or is about to do so, with intent to defraud or defeat his creditors; or

(*d*) that the logs or timber are about to be cut into lumber or other timber so that the logs or timber cannot be identified; and

(*e*) that he is in danger of losing his claim if attachment does not issue,

and, if affidavits of two persons corroborating the affidavit of the plaintiff in respect of clause *a*, *b*, *c* or *d* are also filed, the clerk of the proper small claims court shall issue a warrant, as in the case of an attachment under section 164 of *The Small Claims Courts Act*, directed to the bailiff of the small claims court commanding such bailiff to attach, seize, take and safely keep such logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien, and to return the warrant forthwith to the court out of which the warrant issued. R.S.O. 1960, c. 436, s. 16, *amended*. R.S.O. 1970, c. 439

17.—(1) Where the amount claimed exceeds $400, upon the filing of a copy of the claim and affidavit, the clerk of the district court of the district where the action may be brought, upon the filing of an affidavit made by the claimant showing such facts as would authorize the issue of an attachment under section 16 and such affidavit in corroboration as is provided in section 16, shall issue a writ of attachment directed to the sheriff of the district commanding him to attach, seize and take and safely keep the logs or timber or a sufficient part thereof to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien. When attachment to issue out of district court

(2) Where additional claims are made or the amount of the claim is increased or a sufficient seizure has not been made, a second or subsequent seizure may be made either under the execution or attachment. R.S.O. 1960, c. 436, s. 17. Subsequent seizure

18.—(1) The warrant or writ of attachment shall also, where no writ or summons has issued, summon the defendant to appear before the district court or small claims court out of which the attachment issued, and a copy of the writ of attachment shall be served upon the defendant, and, if the defendant is not the owner of the logs or timber described in the warrant or writ, a copy of the Warrant or writ to be served on defendant and the owner of logs

warrant or writ of attachment shall also be served upon the owner of the logs or timber or upon the person or agent in whose possession, custody or control they may be found.

When order allowing service necessary

(2) When a warrant or writ is served upon a person in possession, an order of the judge allowing the service is necessary.

Service where no one in possession of logs

(3) Where the defendant or the owner of the logs or timber cannot be found within the district and there is no one in possession of the logs or timber, a copy of the warrant or writ may be forwarded to the sheriff of any county or district or the bailiff of any small claims court within whose jurisdiction the defendant or the owner resides or may be found, and such copy may be served by the sheriff or the bailiff upon the defendant or the owner.

Owner may be made a party

(4) The owner may, on his own application or by direction of the judge, be made a party defendant.

When defendant or owner not in Ontario, etc.

(5) If the defendant or the owner cannot be found within Ontario or the owner cannot be ascertained, and no person is in possession of the logs or timber, the warrant or writ may be served in such manner as the judge may direct.

Admission of parties to make defence

(6) Notwithstanding that a defence has not been entered, the judge may admit the defendant and the owner or either of them to make full defence upon such terms as he considers just. R.S.O. 1960, c. 436, s. 18, *amended*.

Logs or timber in transit within district not to be detained

19. A sheriff or bailiff shall not seize or detain under a warrant or writ of attachment any logs or timber when in transit from the place where cut to the place of destination when such place of destination is within the district in which the proceedings were commenced, but if such logs or timber are so in transit, or are in the possession of any person for the purpose of being driven or sorted and delivered to the owner, or to satisfy any statutory lien, attachment of the logs or timber may be made by serving a copy of the warrant or writ upon the person in whose possession, custody or control they are, who shall from the time of such service hold the same, both on his own behalf and for the sheriff or bailiff to the extent of the lien, until the logs or timber have reached their place of destination or are driven or sorted, as the case may be, and when they have reached their place of destination or are driven or sorted the sheriff or bailiff may receive the logs or timber from such person, and the statutory lien of such person is not released by the holding of the sheriff or bailiff. R.S.O. 1960, c. 436, s. 19.

Separation of logs

R.S.O. 1970, c. 233

20. The claimant or the plaintiff, and the sheriff or bailiff may, by leave of the judge, take any proceedings that the owner of any logs or timber may take under *The Lakes and Rivers*

Improvement Act for the purpose of procuring the separation of any logs or timber so seized by the sheriff or bailiff under this Act from other logs or timber with which they have become intermixed, or a sale may be made without such separation if the judge so directs. R.S.O. 1960, c. 436, s. 20.

Sheriff or bailiff to restore possession upon execution of bond

21. In case of an attachment, if the owner of the logs or timber or any person on his behalf executes and files with the clerk of the court out of which the attachment issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the clerk conditioned for the payment of the claim and of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, the clerk shall issue an order to the sheriff or bailiff having in charge the logs or timber directing their release, and upon service of such order upon the sheriff or bailiff he shall release the same. R.S.O. 1960, c. 436, s. 21.

Notice of dispute

22.—(1) Any person who has been served with a copy of the warrant or writ of attachment and who desires to dispute the claim shall, within fourteen days after such service, enter in the court in which proceedings are pending a notice that he disputes the claim in whole or in part.

If no notice of dispute entered judgment may be entered

(2) If no notice of dispute is entered, judgment may be entered as in the case of default, and the practice and procedure shall be the same as in a suit begun by writ or summons. R.S.O. 1960, c. 436, s. 22.

Persons served with attachment may pay amount claimed into court

23.—(1) The defendant may, at any time before the sale of the logs or timber, pay into court the amount for which the lien is claimed, together with the amount for which a lien is claimed in any other suit, and also the costs of the proceedings to the date of such payment to be taxed by the clerk of the court if required, and is thereupon entitled to a certificate vacating the liens.

Subsequent procedure

(2) Upon such certificate being filed with the clerk of the court in which the claim was filed, the liens are vacated and all further proceedings thereon shall cease, and the defendant is entitled to an order directing the delivery up of the logs or timber seized under the attachment, or the cancellation of any bond given under section 21. R.S.O. 1960, c. 436, s. 23.

Day for hearing to be fixed by advertisement

24.—(1) After the expiration of the time within which a notice of dispute may be entered, the judge shall, upon the application of the plaintiff, appoint a day upon which all persons claiming a lien on the logs or timber are to appear before him for the adjustment of their claims and the settlement of accounts.

Service of appointment and advertisement

(2) The appointment shall be served upon the defendants and upon the owner, if the judge so directs, and shall also, if the judge so directs, be published once a week for two weeks before the day appointed in a newspaper having a general circulation in the district in which proceedings are pending.

Notification of lien-holders and the Minister

(3) A copy of the appointment shall also be sent by registered mail to every claimant known to the plaintiff and to the Minister of Lands and Forests at least two weeks before the day appointed, directed to the post office address of such claimant where it is known and if not known then to his latest known address. R.S.O. 1960, c. 436, s. 24, *amended*.

Parties filing notices of disputes or claims to attend on day named in appointment

25.—(1) Upon the day named in the appointment, the persons served with a copy thereof and all other persons claiming a lien on the logs or timber who have prior to that date filed with the clerk a notice claiming a lien on the logs or timber and stating the nature and amount of their claims shall attend before the judge.

Proof of claims

(2) Where a claim is brought pursuant to the notice, it may be established *prima facie* by affidavit, but any person interested may cross-examine a deponent, and may require that the claim be established as in other cases.

Judge to hear all parties, take accounts, etc.

(3) The judge shall hear all parties and take all accounts necessary to determine the amounts due to the claimants, and shall tax costs and determine by whom the costs shall be paid, and settle priorities and generally determine all such matters as may be necessary for the adjustment of the rights of all parties. R.S.O. 1960, c. 436, s. 25.

Order to be made by judge at conclusion of inquiry

26.—(1) At the conclusion of the inquiry, the judge shall make his report and order which shall state his findings and direct the payment into court within ten days thereafter of the amounts found due and the costs and, that in default of payment, the logs or timber will be sold by the sheriff or bailiff for the satisfaction thereof.

In default of payment into court logs or timber to be sold

(2) In default of payment into court within the time named in the order, the logs or timber shall, within twenty days thereafter, be sold by the sheriff or bailiff in the same manner and subject to the same provisions of law as goods seized or taken in execution, or after such additional publicity has been given to the sale as the judge may direct.

Application of proceeds of sale

(3) The amount realized by the sale shall, after deducting the expenses thereof and the fees and poundage of the sheriff or bailiff, be paid into court and shall be paid out by the clerk to the parties entitled thereto under the order of the judge.

Judge to apportion

(4) Where the amount realized upon the sale is not sufficient to pay the claims and costs in full, the judge shall apportion the amount realized *pro rata* among the claimants.

(5) Where after sale and distribution any balance remains due to any person under the order of the judge, the clerk shall, upon application of such person, give to him a certificate that such amount remains due, and such certificate may be entered as a judgment in the district court or small claims court having jurisdiction against the person by whom the claim is directed to be paid, and execution may be issued thereupon. R.S.O. 1960, c. 436, s. 26, *amended*. Certificate of balance due after distribution to be entered as a judgment

27. Where nothing is found due upon the several claims filed or upon the lien with respect to which proceedings have been taken, the judge may order that the lien be discharged and the logs or timber released or the security given therefor delivered up and cancelled, and may order payment of any costs that may be found due to the defendant or the owner of the logs or timber. R.S.O. 1960, c. 436, s. 27. Where nothing found due on inquiry, lien to be discharged

28.—(1) Where the taxed costs, exclusive of necessary disbursements, that are payable out of the amount realized for the satisfaction of the lien exceed 25 per cent of the amount realized, such costs, upon application by any party, may be reduced by the judge so that the costs will not in the aggregate exceed 25 per cent, and no more costs than such reduced amount shall be recovered between party and party or solicitor and client Costs

(2) The costs in addition to actual and necessary disbursements that may be taxed to any claimant proving an uncontested claim shall not exceed $5 if a solicitor is employed, and where the amount claimed is within the jurisdiction of the small claims court, shall not exceed $2 where a solicitor is employed. Limit of, where claim not contested

(3) In case of a contest where a solicitor is employed, the judge may allow such costs not exceeding in any case $10 when taxed on the district court scale or $5 when taxed on the small claims court scale in addition to actual and necessary disbursements, but where the claim does not exceed $50 such costs shall not exceed $3. Where claim contested

(4) Subject to the provisions of this section, the costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the court in which proceedings under this Act have been taken. R.S.O. 1960, c. 436, s. 28, *amended*. Tariff

29.—(1) Where money paid into court as the proceeds of the sale of logs or timber is more than sufficient to satisfy the claims that have been proved with interest and costs, the judge, upon the application of any creditor within thirty days from the day fixed by the order for payment, shall order that such remaining money be paid over to the sheriff who shall hold and distribute the money as provided by *The Creditors' Relief Act* in the case of money Disposition of balance after sale and satisfaction of liens

R.S.O. 1970, c. 97

levied under execution, and all parties having claims may take the like proceedings as those provided by *The Creditors' Relief Act* for proving claims and obtaining certificates or executions.

Order for payment

(2) If no such application is made to the judge within such period of thirty days, the judge may order payment out of court of any remaining money to the person entitled thereto. R.S.O. 1960, c. 436, s. 29, *amended*.

Dismissal of proceedings for want of prosecution

30. Any person affected by proceedings taken under this Act may apply to the judge to dismiss the proceedings for want of prosecution, and the judge may make such order upon the application as he considers just. R.S.O. 1960, c. 436, s. 30.

Other remedies not affected

31.—(1) Nothing in this Act deprives any person of any other remedy to which he may be entitled for the recovery of any amount due in respect of labour performed upon or in connection with any logs or timber.

Where lien not established, judgment for amount found due

(2) Where an action is brought to enforce a lien but no lien is found to exist in respect of the claim, judgment may be given for any amount found due as in an ordinary action. R.S.O. 1960, c. 436, s. 31.

Any number of lienholders may join in proceedings

32. Any number of lienholders may join in taking proceedings under this Act, or may assign their claims to any one or more persons, but the claim to be filed under section 7 shall include particular statements of the several claims joined which shall be verified by the affidavits of the persons so joining, or separate claims may be filed and one writ, summons or attachment issued on behalf of all the persons so joining. R.S.O. 1960, c. 436, s. 32.

Transfer of suit from small claims court in case proceedings taken in district court

33. Where proceedings have been commenced in the district court and proceedings are brought or are thereafter pending in respect of the same logs or timber, or any part of them, in a small claims court, the judge may order the proceedings in the small claims court to be adjourned before him, and shall in his inquiry include the claims in respect of which proceedings are pending in the small claims court, and thereafter all persons who have filed claims in the small claims court are entitled to prove their claims and to share in the benefit of the proceedings in the district court. R.S.O. 1960, c. 436, s. 33, *amended*.

Where suits in several courts

34. Where suits are brought in several district courts or in several small claims courts, the procedure under sections 24 to 26 shall be had in the district or small claims court out of which an execution or attachment first issued, unless the judge of such court otherwise orders. R.S.O. 1960, c. 436, s. 34, *amended*.

35. The practice and procedure in actions brought in the district courts or in small claims courts, shall, so far as they are not inconsistent with this Act, apply to proceedings taken under this Act. R.S.O. 1960, c. 436, s. 35, *amended*. Practice

36. Any person who unlawfully and maliciously and without reasonable and probable cause takes or causes to be taken proceedings under this Act by which logs or timber are seized, detained or sold is liable therefor in an action at the suit of any person aggrieved thereby, and is also liable for all loss and damage occasioned by such seizure by reason of such logs or timber breaking away or being scattered or lost, or otherwise. R.S.O. 1960, c. 436, s. 36. Liability for loss occasioned by improper seizure

37.—(1) No payment of wages shall be made or offered to any person for any labour performed upon or in connection with any logs or timber by any cheque, order, I.O.U., bill of exchange, promissory note or other undertaking, other than a bank note or bill drawn upon or payable at or within any place out of Ontario. Illegal payments

(2) Every person who contravenes, or who directs or knowingly suffers his agent or servant to contravene this section is guilty of an offence and on summary conviction is liable to a fine of not less than $5 and not more than $20. R.S.O. 1960, c. 436, s. 37. Offence

38. No payment made or offered to be made in contravention of section 37 is a defence to an action or proceeding for the recovery of wages, or is receivable in evidence therein, nor does any such payment or offer of payment in any way affect any claim of lien for labour on logs or timber under this Act, but in case of the sale or transfer of any instrument mentioned in section 37, in whole or in part, by the payee the consideration received by him shall be treated as payment on account. R.S.O. 1960, c. 436, s. 38. Illegal payments not to be allowed as a defence in any action

39. Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may prescribe forms for the more convenient carrying out of the provisions of this Act. R.S.O. 1960, c. 436, s. 39. Form of proceedings

FORM 1

(*Section 7 (1)*)

CLAIM OF LIEN

A. B. (*name of claimant*) of (*state residence of claimant*), (*if claim made as assignee then say* as assignee of, *giving name and address of assignor*) under *The Woodmen's Lien for Wages Act*, claims a lien upon certain logs or timber of (*here state the name and residence of the owner of logs or timber upon which the lien is claimed if known*) which logs or timber are composed of (*state the kinds of logs or timber such as pine sawlogs, cedar or other posts or railway ties, shingle bolts or staves, etc., also where situate at time of filing of claim*) in respect of the following work, that is to say, (*here give a short description of the work done for which the lien is claimed*) which work was done for (*here state the name and residence of the person upon whose credit the work was done*) between the.....day of .....and the.....day of.....at..... per (month *or* day *as the case may be*).

The amount claimed as due (*or* to become due) is the sum of..... (*and when credit has been given*, the said work was done on credit, and the period of credit will expire on the.....day of.....).

Dated at.....this.....day of....., 19.....

(*Signature of Claimant*)

R.S.O. 1960, c. 436, Form 1.

FORM 2

(*Section 7 (2)*)

AFFIDAVIT TO BE ATTACHED TO CLAIM

I, ..., make oath and say that I have read (*or* have heard read) the foregoing claim, and that the facts therein set forth are, to the best of my knowledge and belief, true, and that the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all sums of money, goods or merchandise to which (*naming the debtor*) is entitled to credit.

Sworn before me at.....in the district of.....this.....day of....., 19.... }

A Commissioner

R.S.O. 1960, c. 436, Form 2.

CHAPTER 505

The Workmen's Compensation Act

1.—(1) In this Act, Interpretation

(*a*) "accident" includes,

(i) a wilful and intentional act, not being the act of the workman,

(ii) a chance event occasioned by a physical or natural cause, and

(iii) disablement arising out of and in the course of employment; 1962-63, c. 145, s. 1 (1).

(*b*) "accident fund" means the fund provided for the payment of compensation, outlays and expenses under this Act in respect of Schedule 1, the salaries of the Commissioners and all expenses arising out of the establishment, maintenance and operation of mine rescue stations as provided by *The Mining Act*; R.S.O. 1970 c. 274

(*c*) "Board" means the Workmen's Compensation Board; R.S.O. 1960, c. 437, s. 1 (1), cls. (*b*, *c*).

(*d*) "common-law wife" means a woman who, although not legally married to a man, cohabits with him and is recognized as his wife in the community in which they live; 1964, c. 124, s. 1 (1), *part*.

(*e*) "construction" includes reconstruction, repair, alteration and demolition;

(*f*) "dependants" means such of the members of the family of a workman as were wholly or partly dependent upon his earnings at the time of his death or who but for the incapacity due to the accident would have been so dependent; R.S.O. 1960, c. 437, s. 1 (1), cls. (*d*, *e*).

(*g*) "dependent widow" means the woman who was the legal wife and a dependant of a workman immediately before his death; 1964, c. 124, s. 1 (1), *part*.

(*h*) "earnings" and "wages" include any remuneration capable of being estimated in terms of money;

(*i*) "employer" includes every person having in his service under a contract of hiring or apprenticeship, written or oral, express or implied, any person engaged in any work in or about an industry and includes the Crown in right of Ontario and any permanent board of commission appointed by the Crown in right of Ontario and includes

a person who authorizes or permits a learner to be in or about an industry for the purpose mentioned in clause *l*, and, where the services of a workman are temporarily lent or hired to another person by the person with whom the workman has entered into such a contract, the latter is deemed to continue to be the employer of the workman while he is working for that other person;

(*j*) "employment" includes employment in an industry or any part, branch or department of an industry; R.S.O. 1960, c. 437, s. 1 (1), cls. (*f-h*).

(*k*) "independent operator" means a person who carries on an industry set out in Schedule 1 and who does not employ any workmen for that purpose; 1965, c. 142, s. 1 (1).

(*l*) "industrial disease" means any of the diseases mentioned in Schedule 3 and any other disease peculiar to or characteristic of a particular industrial process, trade or occupation;

(*m*) "industry" includes establishment, undertaking, trade and business;

(*n*) "invalid" means physically or mentally incapable of earning;

(*o*) "learner" means a person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry within the scope of Part I for the purpose of undergoing training or probationary work specified or stipulated by the employer as a preliminary to employment; R.S.O. 1960, c. 437, s. 1 (1), cls. (*i-l*).

(*p*) "manufacturing" includes making, preparing, altering, repairing, ornamenting, printing, finishing, packing, packaging, inspecting, testing, assembling the parts of and adapting for use or sale any article or commodity or raw material; R.S.O. 1960, c. 437, s. 1 (1), cl. (*m*); 1964, c. 124, s. 1 (2).

(*q*) "medical referee" means a medical referee appointed by the Board; R.S.O. 1960, c. 437, s. 1 (1), cl. (*n*).

(*r*) "member of the family" means a wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother and half-sister, and a person who stood *in loco parentis* to the workman or to whom the workman stood *in loco parentis*, whether related to him by consanguinity or not so related, and, where the workman is the parent or grandparent of an illegitimate child, includes such child and, where the workman is an illegitimate child, in-

cludes his parents and grandparents, and includes a common-law wife; R.S.O. 1960, c. 437, s. 1 (1), cl. (*o*); 1964, c. 124, s. 1 (3).

(*s*) "member of a municipal volunteer fire brigade" means a person whose membership has been approved either by the chief of the fire department of a corporation, commission or board mentioned in subsection 2 or by a duly authorized official thereof;

(*t*) "outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or materials;

(*u*) "regulations" means the regulations made under this Act;

(*v*) "silicosis" means a fibrotic condition of the lungs sufficient to produce a lessened capacity for work, caused by the inhalation of silica dust;

(*w*) "superannuation fund" means The Workmen's Compensation Board Superannuation Fund; R.S.O. 1960, c. 437, s. 1 (1), cls. (*p-t*).

(*x*) "workman" includes a person who has entered into or is employed under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise, and includes a learner and a member of a municipal volunteer fire brigade, and includes an independent operator admitted by the Board under section 91, and includes a person who is called out under *The Fires Extinguishment Act* or who is summoned to assist in controlling and extinguishing a fire under *The Forest Fires Prevention Act*, but where used in Part I does not include an outworker or an executive officer of a corporation or a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business. 1968, c. 143, s. 1 (1). R.S.O. 1970, cc. 173, 179

(2) For the purposes of this Act, every person, Persons who assist in fire fighting

(*a*) who turns out and assists in extinguishing or stopping the progress of a fire under *The Fires Extinguishment Act* shall, while so engaged, be deemed to be an employee of the township that called him out; or

(*b*) who is summoned and assists in controlling and extinguishing a fire under *The Forest Fires Prevention Act* shall, while so engaged, be deemed to be an employee of the Crown in right of Ontario,

and his earnings for compensation purposes shall be the rate of earnings established at his regular employment under section 44. 1968, c. 143, s. 1 (2).

Municipal corporations, etc., and school boards

(3) The exercise and performance of the powers and duties of,

(*a*) a municipal corporation;

(*b*) a public utilities commission or any other commission or any board having the management and conduct of any work or service owned by or operated for a municipal corporation except a hospital board;

(*c*) a public library board;

(*d*) the board of trustees of a police village; and

(*e*) a school board,

shall for the purposes of Part I be deemed the trade or business of the corporation, commission, board, board of trustees or school board. R.S.O. 1960, c. 437, s. 1 (2); 1962-63, c. 145, s. 1 (2).

Volunteer fire brigade

(4) For the purposes of this Act, a municipal corporation, commission or board mentioned in subsection 3 shall be deemed to be the employer of a member of a municipal volunteer fire brigade, and such employment shall be deemed to be included in the exercise and performance of the powers and duties of the corporation, commission or board and it shall yearly, on or before such date as the Board may prescribe or at such other times as the Board may prescribe, notify the Board, specifying the number of volunteers engaged and shall select such amount of coverage for such volunteers, which in no case shall be less than $2,500 or more than the maximum rate of annual earnings established by subsection 1 of section 44. 1968, c. 143, s. 1 (3).

Schedules 1, 2 and 3

2. A reference in this Act to Schedule 1, 2, or 3 is a reference to Schedule 1, 2, or 3, as the case may be, in the regulations. R.S.O. 1960, c. 437, s. 2.

PART I

COMPENSATION

Compensation to workman

3.—(1) Where in any employment, to which this Part applies, personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer is liable to provide or to pay compensation in the manner and to the extent hereinafter mentioned, except where the injury,

(*a*) does not disable the workman beyond the day of accident from earning full wages at the work at which he was employed; or

(*b*) is attributable solely to the serious and wilful misconduct of the workman unless the injury results in death or

serious disablement. R.S.O. 1960, c. 437, s. 3 (1); 1968, c. 143, s. 2 (1).

Presumptions

(2) Where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of the employment and, where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment. R.S.O. 1960, c. 437, s. 3 (2).

When compensation to date from

(3) Compensation for disability shall be computed and payable from and including the day following the day of the accident or from the date of the disability, whichever is the later. 1968, c. 143, s. 2 (2).

Employers liable to contribute to the accident fund

4. Employers in the industries for the time being included in Schedule 1 are liable to contribute to the accident fund as hereinafter provided, but are not liable individually to pay compensation. R.S.O. 1960, c. 437, s. 4.

Employers individually liable

5. Employers in the industries for the time being included in Schedule 2 are liable individually to pay compensation and medical aid. R.S.O. 1960, c. 437, s. 5.

Accident while workman employed outside Ontario

6.—(1) Where the place of business or chief place of business of the employer is situate in Ontario and the residence and usual place of employment of the workman are in Ontario and an accident happens while the workman is employed out of Ontario and his employment out of Ontario has lasted less than six months, the workman is or his dependants are entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario.

Accident while workman employed outside Ontario for 6 or more months

(2) Where the place of business or chief place of business of the employer is situate in Ontario and the residence and usual place of employment of the workman are in Ontario and the employment of the workman out of Ontario lasts or is likely to last six or more months, the employer may apply to the Board to be assessed on the earnings of such workman and, if the application is accepted by the Board and if the workman is injured by accident happening out of Ontario, the workman is or his dependants are entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario.

Accident while workman outside Ontario temporarily

(3) Where the place of business or chief place of business of the employer is situate in Ontario and the residence of the workman is out of Ontario but his usual and principal place of employment is in Ontario and an accident happens while the workman is out of Ontario merely for some temporary purpose connected with his employment, the workman is or his dependants are entitled to compensation under this Part in the same manner and to the same extent as if the accident had happened in Ontario.

Where employer's place of business out of Ontario

(4) Where an accident happens out of Ontario and the employer's place of business or chief place of business is situate out of Ontario and the workman is entitled to compensation under the law of the place where the accident happens, compensation is not payable to the workman or his dependants whether his residence is in or out of Ontario unless his place of employment is in Ontario and he is at the time of the accident out of Ontario merely for some casual or incidental purpose connected with his employment.

Accidents on ships, railways, aircraft, etc.

(5) Where an accident happens out of Ontario on a steamboat, ship or vessel, or on a railway or on an aircraft, or on a truck, bus or other vehicle used in the transportation of passengers or any goods or substance, and the residence of the workman is in Ontario and the work or service rendered by him is required to be performed both in and out of Ontario, the workman is or his dependants are entitled to compensation under this Part as if the accident had happened in Ontario.

Accident on steamboat or vessel outside of Ontario

(6) Where an accident happens out of Ontario on a steamboat, ship or vessel and the residence of the workman is in Ontario, and whether he had been employed previously in Ontario or not, and regardless of the duration of his employment out of Ontario, the workman is or his dependants are entitled to compensation under this Part if the steamboat, ship or vessel is registered in Canada or if the owner or charterer of the steamboat, ship or vessel has his chief place of business in Ontario.

Accidents excluded

(7) Except as provided in this section, no compensation is payable under this Part where the accident to the workman happens while he is employed elsewhere than in Ontario.

Authority to avoid duplication of assessments

(8) With a view to avoiding duplication of assessments to which an employer may be liable on the earnings of workmen who are employed part of the time in Ontario and part of the time in another province or territory of Canada, the Board may make an agreement with the workmen's compensation authority of that province or territory for such adjustment of assessments as is equitable and may reimburse such other authority for any payment of compensation, rehabilitation or medical aid made by it under such agreement, and may, in order to give effect to any such agreement, relieve any such employer from assessment or reduce the amount thereof. R.S.O. 1960, c. 437, s. 6.

Where compensation payable by law of foreign country, workman to elect

7.—(1) Where by the law of the country or place in which the accident happens the workman is or his dependants are entitled to compensation in respect of it, they shall be bound to elect whether they will claim compensation under the law of such country or place or under this Part and to give notice of such election, and, if such election is not made and notice given, it shall be presumed that they have elected not to claim compensation under this Part.

(2) Notice of the election, where the compensation under this Part is payable by the employer individually, shall be given to the employer and, where the compensation is payable out of the accident fund, to the Board, and shall be given in both cases within three months after the happening of the accident or, in case it results in death, within three months after the death or within such longer period as either before or after the expiration of such three months the Board may allow. R.S.O. 1960, c. 437, s. 7. How election to be made

8.—(1) Where an accident arising out of and in the course of his employment happens to a workman under such circumstances as entitle him or his dependants to an action against some person other than his employer, the workman or his dependants, if entitled to benefits under this Part, may claim such benefits or may bring such action. R.S.O. 1960, c. 437, s. 9 (1); 1968, c. 143, s. 4 (1). Where workman entitled to action against person other than employer

(2) If less is recovered and collected by a judgment in the action or by settlement than the amount of benefits to which the workman or his dependants are entitled under this Part, the difference between the amount recovered and collected and the amount of such benefits is payable to the workman or his dependants. Workman entitled to difference between benefits and amount collected

(3) Subsection 2 applies to a settlement only if the approval of the Board to such settlement has been given before the settlement is made. 1968, c. 143, s. 4 (2). Settlements to be approved

(4) If the workman or his dependants elect to claim benefits under this Act, the employer, if he is individually liable to pay it, and the Board, if the compensation is payable out of the accident fund, are subrogated to all rights of the workman or his dependants in respect of the injury to the workman and may maintain an action in the name of the workman, or of the Board if the employer is in Schedule 1, or of the employer if he is in Schedule 2, against the person against whom the action lies and any amount recovered over and above all amounts expended by the Board or the employer in respect of such claim and action shall be paid to the workman or his dependants and any such surplus paid to the workman or his dependants shall be deducted from the amount of any future compensation or other benefits to which he or they may become entitled in respect of the accident that gave rise to the injury. Subrogation of employer or Board to rights of workman

(5) The employer in Schedule 2 or the Board may, in the action under subsection 4, also recover any amounts expended on behalf of the workman or his dependants by way of compensation or other benefits and has the exclusive right to determine whether such action shall be maintained, abandoned or compromised. 1968, c. 143, s. 4 (3). Recovery of amounts of benefits

How election to be made

(6) The election shall be made and notice of it shall be given within the time and in the manner provided by section 7. R.S.O. 1960, c. 437, s. 9 (4).

Where workman or dependant is an infant

(7) If a workman or a dependant is under the age of twenty-one years, the election under subsection 1 may be made on his behalf by a parent or guardian or by the Official Guardian.

Where workman incapable of making election

(8) If a workman is mentally incapable of making the election under subsection 1 or is unconscious as a result of his injury and no committee has been appointed, his dependant spouse may make such election, but if no election is made within sixty days after the day of the injury, the Public Trustee shall elect on behalf of the injured workman. 1968, c. 143, s. 4 (4).

Right of action as against employer in Schedule 1

(9) No employer in Schedule 1 and no workman of an employer in Schedule 1 or dependant of such workman has a right of action for damages against any employer in Schedule 1 or any workman of such employer, for an injury for which benefits are payable under this Act, where the workmen of both employers were in the course of their employment at the time of the happening of the injury, but, in any case where the Board is satisfied that the accident giving rise to the injury was caused by the negligence of some other employer or employers in Schedule 1 of their workmen, the Board may direct that the benefits awarded in any such case or a proportion of them shall be charged against the class or group to which such other employer or employers belong and to the accident cost record of such individual employer or employers. 1968, c. 143, s. 4 (5).

Exception

(10) Subsection 9 does not apply where the employer has supplied a motor vehicle, machinery or equipment on a purchase or rental basis without also supplying workmen to operate such motor vehicle, machinery or equipment. 1965, c. 142, s. 2.

Damages

(11) In any action brought by a workman of an employer in Schedule 1 or dependant of such workman in any case within subsection 1 or maintained by the Board under subsection 4 and one or more of the persons found to be at fault or negligent is the employer of the workman in Schedule 1, or any other employer in Schedule 1, or any workman of any employer in Schedule 1, no damages, contribution or indemnity are recoverable for the portion of the loss or damage caused by the fault or negligence of such employer of the workman in Schedule 1, or of any other employer in Schedule 1, or of any workman of any employer in Schedule 1, and the portion of the loss or damage so caused by the fault or negligence of such employer of the workman in Schedule 1, or of any other employer in Schedule 1, or of the workman or any employer in Schedule 1, shall be determined although such employer or workman is not a party to the action.

Idem

(12) In any action brought by a workman of an employer in Schedule 2 or dependant of such workman in any case within

subsection 1 or maintained by the employer of the workman under subsection 4 and one or more of the persons found to be at fault or negligent is the employer of the workman in Schedule 2, no damages, contribution or indemnity are recoverable for the portion of the loss or damage caused by the fault or negligence of such employer and the portion of the loss or damage so caused by the fault or negligence of such employer shall be determined although such employer is not a party to the action. R.S.O. 1960, c. 437, s. 9 (7, 8).

Employers and contractors

9.—(1) The workmen of a contractor or subcontractor executing any work in or for the purposes of an industry under this Part, carried on by another person, in this subsection and in subsection 2 referred to as the principal, shall be deemed to be the workmen of the principal unless such contractor or subcontractor is, in respect of such work, assessed, or added and assessed, as the case may be, as an employer in Schedule 1, or, in cases where such contractor or subcontractor is, in respect of such work, individually liable for payment of compensation, unless the Board finds and declares that the responsibility of such contractor or subcontractor is sufficient protection to his workmen for the benefits provided for by this Act.

Right of principal employer to reimbursement from contractor

(2) Where a principal has made payment of assessment or compensation or furnished medical aid that, but for subsection 1, he would not have been liable to pay or furnish, he is entitled to reimbursement from the contractor or subcontractor to such extent as the Board finds such contractor or subcontractor would have been liable.

Liability of principal to pay assessments

(3) Where a person, whether carrying on an industry included in Schedule 1 or not, in this subsection and in subsection 4 referred to as the principal, contracts with any other person, in this section referred to as the contractor, for the execution by or under the contractor of the whole or any part of any work for the principal, it is the duty of the principal to see that any sum that the contractor or any subcontractor is liable to contribute to the accident fund is paid, and, if any such principal fails to do so, he is personally liable to pay it to the Board, and the Board has the like powers and is entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

Right of indemnity

(4) Where the principal is liable to make payment to the Board under subsection 3, he is entitled to be indemnified by any person who should have made such payment and is entitled to withhold out of any indebtedness due to such person a sufficient amount to answer the same, and all questions as to the right to and the amount of any such indemnity shall be determined by the Board.

Liability of contractor or subcontractor to contribute

(5) Nothing in this section prevents a workman claiming compensation or the Board collecting contribution to the accident

fund from the contractor or any subcontractor instead of the principal. R.S.O. 1960, c. 437, s. 10.

Liability of licensee to pay assessments R.S.O. 1970, c. 102

10.—(1) Where a licence is granted under *The Crown Timber Act* and timber is cut by a person other than the licensee, it is the duty of the licensee to see that any sum that the person engaged in the cutting of such timber is liable to contribute to the accident fund is paid and, if the licensee fails to do so, he is personally liable to pay such sum to the Board, and the Board has the like powers and is entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment.

Right of indemnity

(2) Where the licensee is liable to make payment to the Board under subsection 1, he is entitled to be indemnified by any person who should have made such payment and is entitled to withhold out of any indebtedness due to such person a sufficient amount to answer the same and all questions as to the right to and the amount of any such indemnity shall be determined by the Board. R.S.O. 1960, c. 437, s. 11.

Where employer carried on payroll, he and dependants entitled to compensation

11. Where compensation is payable out of the accident fund and an employer carries himself on his payroll or an executive officer of a corporation is carried on the payroll of the corporation at a salary or wage that the Board deems reasonable, but at a rate of not less than $2,500 per annum or more than the maximum rate of annual earnings established by subsection 1 of section 44, and it is stated in the payroll statement furnished to the Board under section 93 that it is desired that such employer or executive officer be included as a workman, and the amount of his salary or wages is shown in such statement and included in the estimate for the year, such employer or executive officer shall be deemed to be a workman within the meaning of this Act and he is or his dependants are entitled to compensation accordingly, but, for the purpose of determining the compensation, his earnings shall not be taken to be more than the amount of his salary or wages as shown by such statement. 1968, c. 143, s. 5.

No action to be brought to recover compensation

12. No action lies for the recovery of compensation whether it is payable by the employer individually or out of the accident fund, but all claims for compensation shall be heard and determined by the Board. R.S.O. 1960, c. 437, s. 13.

Where workman residing out of Ontario entitled to compensation

13. If a workman receiving a weekly or other periodical payment ceases to reside in Ontario, he is not thereafter entitled to receive any such payment unless a medical referee certifies that the disability resulting from the injury is likely to be of a permanent nature, and, if a medical referee so certifies and the Board so directs, the workman is entitled quarterly to the amount of the weekly or other periodical payments accruing due if he proves in such manner as may be prescribed by the regulations his

identity and the continuance of the disability in respect of which the same is payable. R.S.O. 1960, c. 437, s. 14.

Provisions of Act in lieu of all rights of action against employer

14. The provisions of this Part are in lieu of all rights and rights of action, statutory or otherwise, to which a workman or the members of his family are or may be entitled against the employer of such workman for or by reason of any accident happening to him or any industrial disease contracted by him on or after the 1st day of January, 1915, while in the employment of such employer, and no action lies in respect thereof. R.S.O. 1960, c. 437, s. 15.

Determination of workman's right to bring action

15. Any party to an action may apply to the Board for adjudication and determination of the question of the plaintiff's right to compensation under this Part, or as to whether the action is one the right to bring which is taken away by this Part, and such adjudication and determination is final and conclusive. R.S.O. 1960, c. 437, s. 16.

Right to compensation may not be waived

16. It is not competent for a workman to agree with his employer to waive or to forego any of the benefits to which he or his dependants are or may become entitled under this Part and every agreement to that end is void. R.S.O. 1960, c. 437, s. 17.

Agreement as to compensation not valid unless approved by the Board

17.—(1) Where the compensation is payable by an employer individually, no agreement between a workman or dependant and the employer for fixing the amount of the compensation or by which the workman or dependant accepts or agrees to accept a stipulated sum in lieu or in satisfaction of it is binding on the workman or dependant unless it is approved by the Board.

Idem

(2) Subsection 1 does not apply to compensation for temporary disability lasting for less than four weeks, but in such cases the Board may, on the application of the workman or dependant, or of its own motion, set aside the agreement on such terms as may be deemed just.

Idem

(3) Nothing in this section shall be deemed to authorize the making of any such agreement except with respect to an accident that has happened and the compensation to which the workman or dependant has become entitled because of it. R.S.O. 1960, c. 437, s. 18.

Deduction not to be made from wages

18.—(1) It is not lawful for an employer, either directly or indirectly, to deduct from the wages of any of his workmen any part of any sum that the employer is or may become liable to pay to the workman as compensation under this Part or to require or to permit any of his workmen to contribute in any manner towards indemnifying the employer against any liability that he has incurred or may incur under this Part.

Offence

(2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and for every such contravention is on summary conviction liable to a fine of not more than $50 and is also liable to repay to the workman any sum that has been so deducted from his wages or that he has been required or permitted to pay in contravention of subsection 1. R.S.O. 1960, c. 437, s. 19.

Compensation not assignable or liable to attachment

19. Unless with the approval of the Board, no sum payable as compensation or by way of commutation of any weekly or other periodical payment in respect of it is capable of being assigned, charged or attached, nor does it pass by operation of law except to a personal representative nor shall any claim be set off against it. R.S.O. 1960, c. 437, s. 20.

Notice of accident

20.—(1) Subject to subsection 5, compensation or medical aid is not payable unless notice of the accident is given as soon as practicable after the happening of it and before the workman has voluntarily left the employment in which he was injured and unless the claim for compensation or medical aid is made within six months from the happening of the accident or, in case of death, within six months from the time of death.

Nature of notice

(2) The notice shall give the name and address of the workman and is sufficient if it states in ordinary language the cause of the injury and where the accident happened.

Service of notice

(3) The notice may be served by delivering it at or sending it by registered mail addressed to the place of business or the residence of the employer or, where the employer is a body of persons, corporate or unincorporate, by delivering it at or sending it by registered mail addressed to the employer at the office or, if there are more offices than one, at any of the offices of such body of persons.

Notice to Board

(4) The notice shall also be given to the Board by delivering it to or at the office of the secretary or by sending it to him by registered mail addressed to his office.

Failure to give, or defect in notice not to affect right to compensation in certain cases

(5) Failure to give the prescribed notice or to make such claim or any defect or inaccuracy in a notice does not bar the right to compensation if in the opinion of the Board the employer was not prejudiced thereby or, where the compensation is payable out of the accident fund, if the Board is of opinion that the claim for compensation is a just one and ought to be allowed. R.S.O. 1960, c. 437, s. 21.

Workman to submit to examination

21.—(1) A workman who claims compensation or to whom compensation is payable under this Part shall, if so required by his employer, submit himself for examination by a legally qualified medical practitioner provided and paid for by the employer and

shall, if so required by the Board, submit himself for examination by a medical referee.

(2) A workman shall not be required at the request of his employer to submit himself for examination otherwise than in accordance with the regulations. R.S.O. 1960, c. 437, s. 22. In accordance with regulations

22.—(1) Where a workman has upon the request of his employer submitted himself for examination, or has been examined by a legally qualified medical practitioner selected by himself, and a copy of the report of the medical practitioner as to the workman's condition has been furnished in the former case by the employer to the workman and in the latter case by the workman to the employer, the Board may, on the application of either of them or of its own motion, refer the matter to a medical referee. In case of difference between medical examiners, etc., reference may be made to medical referee

(2) The medical referee to whom a reference is made under subsection 1, or who has examined the workman by the direction of the Board under subsection 1 of section 21, shall certify to the Board as to the condition of the workman and his fitness for employment, specifying where necessary the kind of employment and, if unfit, the cause of such unfitness, and his certificate unless the Board otherwise directs is conclusive as to the matters certified. Certificate of medical referee

(3) If a workman does not submit himself for examination when required to do so as provided by subsection 1 of section 21, or on being required to do so does not submit himself for examination to a medical referee under that subsection or under subsection 1 of this section, or in any way obstructs any examination, his right to compensation or, if he is in receipt of a weekly or other periodical payment, his right to it is suspended until such examination has taken place. R.S.O. 1960, c. 437, s. 23. Failure to submit to examination or obstructing it

23. Where in any case, in the opinion of the Board, it is in the interest of the accident fund to provide a special surgical operation or special medical treatment for a workman, and the furnishing of the same by the Board is, in the opinion of the Board, the only means of avoiding heavy payment for permanent disability, the expense of such operation or treatment may be paid out of the accident fund. R.S.O. 1960, c. 437, s. 24. Special medical treatment in certain cases

24. Any weekly or other periodical payment to a workman may be reviewed at the request of the employer or the workman or of the Board's own motion and on such review the Board may put an end to or diminish or increase such payment to a sum not beyond the maximum hereinafter prescribed. 1968, c. 143, s. 6. Review of compensation

25. Where the workman was at the date of the accident under twenty-one years of age and the review takes place more than six Increase of compensation to workman under 21

months after the accident, the amount of a weekly payment may be increased to the sum to which he would have been entitled if his average earnings had at the date of the accident been equal to what, if he had not been injured, he would probably have been earning at the date of the review. R.S.O. 1960, c. 437, s. 26.

Commutation of payments

26.—(1) Where the compensation is payable by an employer individually or out of the accident fund, the Board may commute the weekly or other periodical payments payable to a workman or dependant for a lump sum, and may charge the same to the employer or to the accident fund, as the case may be. 1964, c. 124, s. 3.

Lump sum to be paid to Board

(2) Where the lump sum is payable by the employer individually, it shall be paid to the Board.

Application of lump sum

(3) The lump sum may be,

(*a*) applied in such manner as the workman or dependant may direct;

(*b*) paid to the workman or dependant;

(*c*) invested by the Board and applied from time to time as the Board may deem most for the advantage of the workman or dependant;

(*d*) paid to trustees to be used and employed upon and subject to such trusts and for the benefit of such persons as, in case it is payable by the employer individually, the workman or dependant directs and the Board approves, or, if payable out of the accident fund, as may be desired by the workman or dependant and approved by the Board;

(*e*) applied partly in one and partly in another or others of the modes mentioned in clauses *a*, *b*, *c* and *d*,

as the Board may determine.

Advances on account of compensation

(4) In any case where the compensation is payable out of the accident fund and where the Board is of opinion that the interest or pressing need of the workman or dependant warrants it, the Board may advance or pay to or for the workman or dependant such lump sum as the circumstances warrant. R.S.O. 1960, c. 437, s. 27 (2-4).

Commutation of weekly payments

27.—(1) Where a weekly or other periodical payment is payable by the employer individually and has been continued for not less than six months, the Board may on the application of the employer allow the liability therefor to be commuted by the payment of a lump sum of such an amount as, if the disability is permanent, would purchase an immediate annuity from a life insurance company approved by the Board, equal either to 75 per cent of the annual value or the full annual value of the weekly or

other periodical payments and, in other cases, of such an amount as the Board considers reasonable.

(2) The sum for which a payment is commuted under subsection 1 shall be paid to the Board and shall be dealt with in the manner provided by section 26. R.S.O. 1960, c. 437, s. 28. Application of lump sum

28.—(1) Where an employer insured by a contract of insurance of an insurance company or any other underwriter is individually liable to make a weekly or other periodical payment to a workman or his dependants and the payment has continued for more than six months, the liability shall, if the Board so directs before the expiration of twelve months from the commencement of the disability of the workman or his death, if the accident resulted in death, be commuted by the payment of a lump sum in accordance with section 27, and the company or underwriter shall pay the lump sum to the Board, and it shall be dealt with in the manner provided by section 26. Insurance company required to commute weekly or other periodical payment

(2) This section does not apply to a contract of insurance entered into before the 1st day of May, 1914. R.S.O. 1960, c. 437, s. 29. Where section not to apply

29. The Board may require an employer, who is individually liable to pay the compensation, to pay to the Board a sum sufficient to commute, in accordance with section 27, any weekly or other periodical payments that are payable by the employer, and such sum shall be applied by the Board in the payment of such weekly or other periodical payments as they from time to time become payable, but, if the sum paid to the Board is insufficient to meet the whole of such weekly or other periodical payments, the employer is nevertheless liable to make such of them as fall due after the sum paid to the Board is exhausted and, if the sum paid is more than sufficient for that purpose, the excess shall be returned to the employer when the right to compensation comes to an end, unless otherwise ordered by the Board. R.S.O. 1960, c. 437, s. 30. Board may require employer to pay sum sufficient to commute

30. The Board may require an employer, who is individually liable, to pay the compensation to insure his workmen and keep them insured against accidents in respect of which he may become liable to pay compensation in a company approved by the Board for such amount as the Board may direct and, in default of his doing so, the Board may cause them to be so insured and may recover the expense incurred in so doing from the employer in the same way as payment of assessments may be enforced. R.S.O. 1960, c. 437, s. 31. Board may require employer to insure his workmen

31.—(1) Where an employer, who is individually liable to pay the compensation, is insured against his liability to pay compensation, the Board may require the insurance company or other Where employer insured, Board may require insurer to pay amount payable to employer directly to Board

underwriter to pay the sum that under the contract of insurance such company or underwriter would be liable to pay to the employer in respect of an accident to a workman who becomes or whose dependants become entitled to compensation under this Part, directly to the Board in discharge or in discharge *pro tanto* of the compensation to which such workman or his dependants are found to be entitled.

Notice to be given to insurer

(2) Where a claim for compensation is made in any case to which subsection 1 applies, notice of the claim shall be given to the insurance company or other underwriter and to the employer, and the Board shall determine not only the question of the right of the workman or dependant to compensation but also the question whether the whole or any part of it should be paid directly by the insurance company or other underwriter as provided by subsection 1.

Section 26 to apply

(3) Section 26 applies to the compensation payable to the Board under subsection 1. R.S.O. 1960, c. 437, s. 32.

In case of permanent disability employer may be required to pay capital sum

32.—(1) Where the accident causes total or partial permanent disability or the death of the workman and the compensation is payable by the employer individually, the Board may require the employer to pay to the Board such sum as in its opinion will be sufficient, with the interest thereon, to meet the future payments to be made to the workman or his dependants, and such sum when paid to the Board shall be invested by it and shall form a fund to meet such future payments.

or to give security for payment of compensation

(2) Instead of requiring the employer to make the payment provided for by subsection 1, the Board may require him to give such security as it considers sufficient for the future payments. R.S.O. 1960, c. 437, s. 33

Requiring deposits by employers in Schedule 2

33. Where the Board considers it requisiste for the prompt payment of claims, it may require any employer in Schedule 2 to make deposits of money with it from time to time, out of which it may pay compensation and medical aid for accidents to workmen of such employer as they occur. R.S.O. 1960, c. 437, s. 34.

Provision for funds to pay increased compensation

34.—(1) The additional moneys necessary to provide for increases of compensation in respect of accidents previously happening may be levied and collected by the Board from the employers either now, previously or hereafter carrying on industries under this Part in such manner and at such time or times as the Board considers most equitable and most in accordance with the general principles of this Act, and, in the case of Schedule 1 employers, the levy and collection may be by way of addition to the usual assessment or by levy of special or additional assessment or assesssments, and, in the case of Schedule 2 employers, by way of additional deposit or capitalized amount as may be necessary to provide for such increases.

(2) Where by reason of limit of legal liability or for other cause the Board considers it inequitable or inexpedient to apply subsection 1 to any pension award, the Board has power to exempt the same accordingly. R.S.O. 1960, c. 437, s. 35. Power to grant exemptions in certain cases

35. Where a right to compensation is suspended under this Part, no compensation is payable in respect of the period of suspension. R.S.O. 1960, c. 437, s. 36. Compensation not payable during suspension

SCALE OF COMPENSATION

36.—(1) Where death results from an injury, the amount of the compensation shall be, Compensation in case of death

(*a*) the necessary expenses of the burial or cremation of the workman, not exceeding $400;

(*b*) where owing to the circumstances of the case the body of the workman is transported for a considerable distance for burial or cremation, a further sum for necessary extra expenses of the burial or cremation thus entailed;

(*c*) where the widow or an invlaid husband is the sole dependant, a monthly payment of $125;

(*d*) where the dependants are a widow or an invalid husband and one or more children, a monthly payment of $125, with an additional monthly payment of $50 to be increased upon the death of the widow or invalid husband to $60 for each child under the age of sixteen years;

(*e*) where the dependants are children, a monthly payment of $60 to each child under the age of sixteeen years;

(*f*) where the dependants are persons other than those mentioned in clauses *c*, *d* and *e*, a sum reasonable and proportionate to the pecuniary loss to such dependants occasioned by the death, to be determined by the Board, but not exceeding in the whole $150 per month. 1968, c. 143, s. 7 (1).

(2) Where a workman has had for the entire period of six years immediately preceding his death a common-law wife or where a workman has had during the entire period of two years immediately preceding his death a common-law wife by whom he has had one or more children, and leaves no dependent widow, the compensation to which a dependent widow would have been entitled under this Part may, in the discretion of the Board, be paid to the common-law wife until such time as she marries. Common-law wife

(3) A dependent common-law wife receiving compensation under this section may not be paid compensation for acting or claiming to act as a foster-mother to the children of the deceased workman. 1964, c. 124, s. 4 (1). Idem

Further education

(4) Where in the opinion of the Board the furnishing of further or better education to a child appears advisable, the Board in its discretion may on application extend the period to which compensation shall be paid in respect of the child for such additional period as is spent by the child in the furthering or bettering of its education. R.S.O. 1960, c. 437, s. 37 (2); 1964, c. 124, s. 4 (2).

Compensation in death cases, maximum and minimum

(5) Exclusive of the expenses of the burial or cremation of the workman and the lump sum of $500, the monthly compensation payable under subsection 1 shall not in any case exceed the average monthly earnings of the workman and, if the monthly compensation so payable exceeds such earnings, it shall be reduced accordingly and, where several persons are entitled to monthly payments, the payments shall be reduced proportionately, provided that the minimum monthly compensation shall be,

(*a*) where the widow or an invalid husband is the sole dependant, $125;

(*b*) where the dependants are a widow or an invalid husband and one or more children, $125 for the widow or invalid husband with a further payment of $50, to be increased on the death of the widow or invalid husband to $60, for each child, not exceeding in the whole $275; or

(*c*) where the dependants are children, $60 to each child, not exceeding in the whole $275. 1968, c. 143, s. 7 (2).

Payment of monthly allowance to foster-mother

(6) Where the workman leaves no widow or the widow subsequently dies, or where there is a mother of a dependant illegitimate child, and it seems desirable to continue the existing household and an aunt, sister or mother of an illegitimate child, or other suitable person, acts as foster-mother in keeping up such household and maintaining and taking care of the children entitled to compensation in a manner that the Board deems satisfactory, such foster-mother while so doing is entitled to receive the same monthly payments of compensation for herself and the children as if she were the widow of the deceased, and in such case the children's part of such payments shall be in lieu of the monthly payments that they would otherwise have been entitled to receive. R.S.O. 1960, c. 437, s. 37 (4).

Payment of lump sum

(7) In addition to any other compensation provided for, the widow or, where the workman leaves no widow, the foster-mother, as in subsection 6 described, is entitled to a lump sum of $500. 1968, c. 143, s. 7 (3).

Duration of payments under clause *f* of subsection 1.

(8) In the case provided for by clause *f* of subsection 1, the payments shall continue only so long as in the opinion of the Board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of the dependants and, in any case under that clause, compensation may be made wholly or partly in a lump sum or by such form of payment as the Board in the circumstances considers most suitable.

(9) A dependant to whom the workman stood *in loco parentis* or a dependant who stood *in loco parentis* to the workman is entitled, as the Board may determine, to share in or receive compensation under clause *d*, *e* or *f* of subsection 1. Dependants to whom workman stood *in loco parentis*

(10) Compensation is payable to an invalid child without regard to the age of the child and shall continue until the child ceases to be an invalid or dies. Compensation to invalid child

(11) Where there are both total and partial dependants, the compensation may be allotted partly to the total and partly to the partial dependants. Compensation to dependants

(12) Where the Board is of opinion that for any reason it is necessary or desirable that a payment in respect of a child should not be made directly to its parent, the Board may direct that the payment be made to such person or be applied in such manner as the Board considers most advantageous for the child. R.S.O. 1960, c. 437, s. 37 (6-10). Board may apply payment for benefit of children

37.—(1) If a dependant widow marries, the monthly payments to her shall cease, but she is entitled in lieu of them to a lump sum equal to the monthly payments for two years, and the lump sum is payable within one month after the day of her marriage. Marriage of widow

(2) Subsection 1 does not apply to payments to a widow in respect of a child. R.S.O. 1960, c. 437, s. 38. Exception

38. Subject to subsections 4 and 10 of section 36, a monthly payment in respect of a child shall cease when the child attains the age of sixteen years or dies. R.S.O. 1960, c. 437, s. 39. When payments to child to cease

39. Where temporary total disability results from the injury, the compensation shall be a weekly payment of 75 per cent of the workman's average weekly earnings, and is payable so long as the disability lasts. 1968, c. 143, s. 8. Temporary total disability

40. Where a workman, who has become entitled to benefits under this Act and has returned to employment, becomes entitled to payment for temporary disability by reason of any matter arising out of the original accident, the compensation payable for such temporary disability shall be paid on either the average weekly earnings at the date of the accident or the average weekly earnings at the date of recurrence of the disability, calculated in the manner set out in section 39, whichever is the greater. 1964, c. 124, s. 5; 1968, c. 143, s. 9. Temporary disability subsequent to permanent disability

41. Where temporary partial disability results from the injury, the compensation shall be a weekly payment of 75 per cent of the difference between the average weekly earnings of the workman before the accident and the average amount that he is Temporary partial disability

earning or is physically capable of earning, as determined by the Board, in some suitable employment or business after the accident, and is payable so long as the disability lasts, and subsection 4 of section 42 applies. R.S.O. 1960, c. 437, s. 41; 1962-63, c. 145, s. 5.

Permanent disability

42.—(1) Where permanent disability results from the injury, the impairment of earning capacity of the workman shall be estimated from the nature and degree of the injury, and the compensation shall be a weekly or other periodical payment during the lifetime of the workman, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 75 per cent of his average weeekly earnings during the previous twelve months or such lesser period as he has been employed.

Payable where award for temporary disability

(2) Compensation for permanent disability is payable whether or not an award is made for temporary disability. 1968, c. 143, s. 10 (1).

Schedule of percentages of impairment of earning capacity

(3) The Board may compile a rating schedule of percentages of impairment of earning capacity for specified injuries or mutilations that may be used as a guide in determining the compensation payable in permanent disability cases.

Payment of lump sum

(4) Where the impairment of the earning capacity of the workman does not exceed 10 per cent of his earning capacity, instead of such weekly or other periodical payment, the Board shall, unless in the opinion of the Board it would not be to the advantage of the workman to do so, direct that such lump sum as may be considered to be the equivalent of it shall be paid to the workman.

Periodical payments

(5) Where the Board considers it more equitable, the Board may award compensation for permanent disability having regard to the difference between the average weekly earnings of the workman before the accident and the average amount that he is earning or is able to earn in some suitable occupation after the accident, and the compensation may be a weekly or other periodical payment of 75 per cent of such difference, and regard shall be had to the workman's fitness to continue in the employment in which he was injured or to adapt himself to some other suitable occupation. R.S.O. 1960, c. 437, s. 42 (2-4).

Compensation for disfigurement

(6) Notwithstanding subsection 1, where the workman is seriously and permanently disfigured about the face or head, the Board may allow a lump sum in compensation therefor. 1968, c. 143, s. 10 (2).

Minimum amount of compensation

43. Notwithstanding anything to the contrary in this Part, the amount of compensation to which an injured workman is entitled shall not be less than,

(*a*) for temporary total disability,

(i) where his average earnings are not less than $40 a week, $40 a week, and

(ii) where his average earnings are less than $40 a week, the amount of such earnings,

and for temporary partial disability, a proportionate amount in accordance with the impairment of earning capacity; and

(*b*) for permanent disability, the pension computed in accordance with sections 42 and 44 but the amount of such pension shall not be less than,

(i) for permanent total disability, $175 a month, and

(ii) for permanent partial disability, an amount proportionate to that referred to in subclause i in accordance with the impairment of earning capacity. 1968-69, c. 140, s. 1 (1).

How average earnings to be computed

44.—(1) Average earnings shall be computed in such a manner as is best calculated to give the rate per week or month at which the workman was remunerated but not so as in any case to exceed the rate of $7,000 per annum. R.S.O. 1960, c. 437, s. 44 (1); 1968, c. 143, s. 11.

In case of shortness of service or its casual nature

(2) Where, owing to the shortness of the time during which the workman was in the employment of his employer or the casual nature of his employment or the terms of his employment, it is impracticable to compute the rate of remuneration as of the date of the accident, regard may be had to the average weekly or monthly amount that during the twelve months prior to the accident was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, then by a person in the same grade employed in the same class of employment and in the same locality.

Where two or more employers

(3) Where the workman has entered into concurrent contracts of service with two or more employers under which he worked at one time for one of them and at another time for another of them, his average earnings shall be computed on the basis of what he probably would have been earning if he had been employed solely in the employment of the employer for whom he was working at the time of the accident.

Meaning of employment by same employer

(4) Employment by the same employer means employment by the same employer in the grade in which the workman was employed at the time of the accident uninterrupted by absence from work due to illness or any other unavoidable cause.

Special expenses not to be included

(5) Where the employer was accustomed to pay the workman a sum to cover any special expenses entailed on him by the nature of

his employment, that sum shall not be reckoned as part of his earnings.

Board to award compensation in certain cases

(6) Where in any case it seems more equitable, the Board may award compensation having regard to the earnings of the workman at the time of the accident.

Average earnings of apprentice

(7) Where a workman is an apprentice or in the course of learning a trade, occupation, profession or calling and his remuneration is of a nominal nature, the Board may for the purposes of this Act determine his average earnings at an amount that it considers fair and equitable having regard to the average earnings of a fully qualified person engaged in the same trade, occupation, profession or calling, and the employer of the workman is liable to pay assessment to the Board on the earnings so determined. R.S.O. 1960, c. 437, s. 44 (2-7).

Matters to be considered in fixing payments

45.—(1) In fixing the amount of compensation to be paid to a workman or his dependants regard shall be had to any payment, allowance or benefit paid to them by the workman's employer in respect of the workman's accident, including any gratuity or other allowance provided wholly at the expense of the employer.

Payment to employer out of accident fund

(2) Where the compensation is payable out of the accident fund, any sum deducted from the compensation under subsection 1 may be paid to the employer out of the accident fund. R.S.O. 1960, c. 437, s. 45.

Provision for fortnightly or monthly payments

46. Where it is considered advisable, the Board may provide that the payments of compensation shall be fortnightly or monthly instead of weekly or, where the workman or dependant is not a resident of Ontario or ceases to reside therein, may fix the periods of payment otherwise or commute the compensation as the Board considers proper. R.S.O. 1960, c. 437, s. 46.

Commuting compensation for lump sum

47. The Board, for the purpose of enabling the workman to obtain an artificial member, or in any other case where it considers it proper, may, at any time or times, make or direct partial commutation or lump sum payment of his compensation, or otherwise alter the form of payment, as in the circumstances seems most for his advantage. R.S.O. 1960, c. 437, s. 47.

Discontinuation, suspension, etc., of compensation

48. Where it is found that the widow or common-law wife to whom compensation has been awarded is a common prostitute or is openly living with any man in the relation of man and wife without being married to him, the Board may discontinue or suspend compensation to such widow or common-law wife or divert such compensation in whole or in part to or for the benefit of any other dependant or dependants of the deceased workman. R.S.O. 1960, c. 437, s. 48; 1964, c. 124, s. 7.

49. Where a workman is entitled to compensation and it is made to appear to the Board, Diverting compensation to benefit of family

(*a*) that the workman is no longer residing in Ontario but that his wife or child or children under sixteen years of age are still residing therein without adequate means of support and are, or are apt to become, a charge upon the municipality where they reside, or upon private charity; or

(*b*) that the workman although still residing in Ontario is not supporting his wife and children as aforesaid and an order has been made against the workman by a court of competent jurisdiction for the support or maintenance of his wife or family, or for alimony,

the Board may divert such compensation in whole or in part from the workman for the benefit of his wife or children. R.S.O. 1960, c. 437, s. 49.

50. If a workman or a dependant is under the age of twenty-one years or is of unsound mind or in the opinion of the Board is incapable of managing his own affairs, any benefits to which he is entitled may be paid on his behalf to his parent, spouse or committee or to the Public Trustee or may be paid to such other person or applied in such manner as the Board considers in the best interest of such workman or dependant, and when paid to the Public Trustee, it is the duty of the Public Trustee to receive and administer any such money for the benefit of the workman or dependant. 1968, c. 143, s. 12. Payments in case of infant, etc.

MEDICAL AID

51.—(1) Every workman who is entitled to compensation under this Part or who would have been so entitled had he been disabled beyond the day of the accident is entitled, Medical aid, etc., during disability

(*a*) to such medical aid as may be necessary as a result of the injury;

(*b*) to make the initial choice of doctor or other qualified practitioner for the purposes of this section;

(*c*) where, in the opinion of the Board, he is rendered helpless through permanent total disability, to such other treatment, services or attendance as may be necessary as a result of the injury. 1968, c. 143, s. 13 (1).

(2) In this Act, "medical aid" means medical, surgical, optometrical and dental aid, the aid of drugless practitioners under *The Drugless Practitioners Act*, the aid of chiropodists under *The Chiropody Act*, hospital and skilled nursing services, such artificial members and such appliances or apparatus as may be Interpretation

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necessary as a result of the injury and the replacement or repair thereof when deemed necessary by the Board.

Payment for repair of artificial member or apparatus, etc.

(3) The Board may pay and, where the employer is individually liable, the Board may order the employer to pay,

(*a*) for the replacement or repair of an artificial member or apparatus of a workman that is damaged as a result of an accident in the employment; and

(*b*) on application, an allowance not exceeding $104 per annum for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis supplied by the Board, and not exceeding $52 per annum in respect of an upper limb prosthesis supplied by the Board,

and where the workman is unable to work because of the damage referred to in clause *a*, he is entitled to compensation as though the inability to work had been caused by a personal injury within the meaning of subsection 1 of section 3. 1968, c. 143, s. 13 (2), *part*.

Payment for medical aid

(4) Medical aid shall be furnished or arranged for by the Board or as it may direct or approve and,

(*a*) in the industries in Schedule 1, shall be paid out of the accident fund and the necessary amount shall be included in the assessments levied upon the employers; and

(*b*) in the industries in Schedule 2, the amount shall be paid by the employer of the injured workman to the Board for payment.

Accidents on or after Jan. 1st, 1915

(5) A workman is entitled to such medical aid as may be necessary on or after the 1st day of January, 1947, for an accident happening on or after the 1st day of January, 1915.

Questions to be determined by Board

(6) All questions as to the necessity, character and sufficiency of any medical aid furnished or to be furnished and as to payment for medical aid shall be determined by the Board.

Amount of charges for medical aid

(7) The fees or charges for medical aid shall not be more than would be properly and reasonably charged to the workman if he was paying them himself, and the amount thereof shall be determined by the Board, and no action for any amount larger than that determined by the Board under this subsection lies against the Board and no action in respect of such fees and charges lies against the injured workman, his employer or any other person.

Rendering of accounts for medical aid

(8) Where accounts for payment of medical aid are not received by the Board within such time as the Board may prescribe, the Board may impose such penalty by way of a percentage reduction in the amount of the account as it may prescribe.

(9) It is not lawful for any employer, directly or indirectly, to collect or receive or retain from any workman any contribution toward the expense of medical aid, and every person contravening this provision is guilty of an offence and for every such contravention is liable on summary conviction to a fine of not more than $50 and is also liable, upon the order of the Board, to reimburse the workman treble the amount of any sum so collected, received or retained. Contributions from employees forbidden

(10) Nothing in this Act affects any obligation upon the employer under *The Public Health Act* or any regulation made thereunder, but notwithstanding anything therein contained the employer shall not be entitled, directly or indirectly, to collect, receive or retain from any workman any contribution toward the expense of medical aid. Duty of employer under R.S.O. 1970, c. 377, not affected

(11) Employers in industries in which it is considered proper may be required by the Board to maintain as may be directed by the Board such first-aid appliances and service as the Board may direct, and the Board may make such order respecting the expense thereof as may be considered just. R.S.O. 1960, c. 437, s. 51 (4-11). First-aid appliances may be directed by Board

(12) Every employer shall at his own expense furnish to any workman injured in his employment, who is in need of it, immediate conveyance and transportation to a hospital or a physician, located within the area or within a reasonable distance of the place of injury, or to the workman's home, and any employer failing so to do is liable, by order of the Board, to pay for such conveyance and transportation as may be procured by the workman or by anyone for him, or as may be provided by the Board. 1968, c. 143, s. 13 (2), *part*. Duty of employer to furnish transportation

(13) Where, in conjunction with or apart from the medical aid to which workmen are entitled free of charge, further or other service or benefit is, or is proposed to be, given or arranged for, any question arising as to whether or to what extent any contribution from workmen is or would be one prohibited by this Act shall be determined by the Board. R.S.O. 1960, c. 437, s. 51 (13). Further medical service

MEDICAL REPORTS

52. Every physician, surgeon, hospital official or other person attending, consulted respecting, or having the care of, any workman shall furnish to the Board from time to time, without additional charge, such reports as may be required by the Board in respect of such workman. R.S.O. 1960, c. 437, s. 52. Reports of medical men and hospital officials

REHABILITATION

53. To aid in getting injured workmen back to work and to assist in lessening or removing any handicap resulting from their Aid to injured workmen

injuries, the Board may take such measures and make such expenditures as it may deem necessary or expedient, and the expense thereof shall be borne, in Schedule 1 cases, out of the accident fund and, in Schedule 2 cases, by the employer individually, and may be collected in the same manner as compensation or expenses of administration. 1968, c. 143, s. 14.

WORKMEN'S COMPENSATION BOARD

Workmen's Compensation Board

54. The Workmen's Compensation Board is continued as a body corporate of three members appointed by the Lieutenant Governor in Council. R.S.O. 1960, c. 437, s. 54.

Chairman and vice-chairman

55. One of the members shall be appointed by the Lieutenant Governor in Council to be the chairman of the Board and he shall hold that office while he remains a member of the Board and another of the the members shall be appointed by the Lieutenant Governor in Council to be the vice-chairman of the Board. R.S.O. 1960, c. 437, s. 55.

When vice-chairman may act

56. In the absence of the chairman or in case of his inability to act or if there is a vacancy in the office, the vice-chairman may act as and has all the powers of the chairman. R.S.O. 1960, c. 437, s. 56.

Appointment of member *pro tempore*

57.—(1) In the case of the death, illness or absence of a member or of his inability to act from any cause, the Lieutenant Governor in Council may appoint some person to act *pro tempore* in his stead and the person so appointed has all the powers and shall perform all the duties of a member. R.S.O. 1960, c. 437, s. 57 (1); 1968, c. 143, s. 15.

Application of subs 1

(2) Subsection 1 applies in the case of the chairman of the Board as well as in the case of any other member of it. R.S.O. 1960, c. 437, s. 57 (2).

Presumption where vice-chairman has acted

58. Where the vice-chairman appears to have acted for or instead of the chairman, it shall be presumed conclusively that he so acted for one of the reasons mentioned in section 56. R.S.O. 1960, c. 437, s. 58.

Tenure of office of members

59. Subject to sections 60 and 66, each member shall hold office during the pleasure of the Lieutenant Governor in Council. R.S.O. 1960, c. 437, s. 59.

Age limit

60. Unless otherwise directed by the Lieutenant Governor in Council, a member shall cease to hold office when he attains the age of seventy-five years. R.S.O. 1960, c. 437, s. 60.

61. Each of the members shall devote the whole of his time to the performance of his duties under this Part. R.S.O. 1960, c. 437, s. 61. Members to give whole time to duties

62. The salaries of the members shall be fixed by the Lieutenant Governor in Council and are payable out of the accident fund as part of the administration expenses of the Board. R.S.O. 1960, c. 437, s. 62. Salaries

63. The presence of two members is necessary to constitute a quorum of the Board. R.S.O. 1960, c. 437, s. 63. Quorum

64. A vacancy in the Board does not, if there remain two members of it, impair the authority of such two members to act. R.S.O. 1960, c. 437, s. 64. Vacancy

65. The Board has the like powers as the Supreme Court for compelling the attendance of witnesses and of examining them under oath, and compelling the production of books, papers, documents and things. R.S.O. 1960, c. 437, s. 65. Powers of Board

66.—(1) A member of the Board shall not directly or indirectly, Members to be disqualified in certain cases

(*a*) have, purchase, take or become interested in any industry to which this Part applies or any bond, debenture or other security of the person owning or carrying it on;

(*b*) be the holder of shares, bonds, debentures or other securities of any company that carries on the business of employers' liability or accident insurance;

(*c*) have any interest in any device, machine, appliance, patented process or article that may be required or used for the prevention of accidents.

(2) If any such industry, or interest therein, or any such share, bond, debenture, security or thing comes to or becomes vested in a member of the Board by will or by operation of law and he does not within three months thereafter sell and absolutely dispose of it, he ceases to hold office. R.S.O. 1960, c. 437, s. 66. Idem

67. The offices of the Board shall be situated in the City of Toronto and its sittings shall be held there, except where it is expedient to hold sittings elsewhere, and, in that case, sittings may be held in any part of Ontario. R.S.O. 1960, c. 437, s. 67. Offices of Board and sittings

68. The Board shall sit at such times and conduct its proceedings in such manner as it may deem most convenient for the proper discharge and speedy dispatch of business. R.S.O. 1960, c. 437, s. 68. Proceedings of Board

Real property

69. Subject to the approval of the Lieutenant Governor in Council, the Board may purchase or otherwise acquire such real property as it may deem necessary for its purposes, and may, with the like approval, sell or otherwise dispose of any such property. R.S.O. 1960, c. 437, s. 69.

Appointment of secretary and officers

70.—(1) The Board shall appoint a secretary and a chief medical officer and may appoint such auditors, actuaries, accountants, inspectors, medical referees, other officers, clerks and servants as the Board may deem necessary for carrying out this Part and may prescribe their duties and, subject to the approval of the Lieutenant Governor in Council, may fix their salaries.

Tenure of office

(2) Every person so appointed shall hold office during the pleasure of the Board. R.S.O. 1960, c. 437, s. 70.

Superannuation Fund

71.—(1) The fund known as The Workmen's Compensation Board Superannuation Fund, for the payment of superannuation allowances or allowances upon the death or disability of an employee or member of the Board, is continued. R.S.O. 1960, c. 437, s. 71 (1).

Regulations

(2) Subject to the approval of the Lieutenant Governor in Council, the Board may make regulations,

(*a*) providing for contributions to the superannuation fund by the Board and by its members and employees;

(*b*) providing for the terms and conditions upon which any superannuation or other allowance shall be payable out of the superannuation fund and the persons to whom the superannuation or other allowance may be paid;

(*c*) providing for the terms and conditions upon which funds will be received and transferred under subsections 6, 7 and 8;

(*d*) providing for the terms and conditions under which agreements may be entered into under subsection 8. R.S.O. 1960, c. 437, s. 71 (2); 1968, c. 143, s. 16 (1).

Employees of accident prevention associations

(3) The employees of designated associations for accident prevention formed under subsection 1 of section 119 and the employees of designated corporations for accident prevention, the members of which are employers within the meaning of section 119, shall for the purposes of this section be deemed to be employees of the Board, and every employee in the service of any such association or corporation on the 10th day of April, 1952, shall, for the purposes of this section, be deemed to have entered the service of the Board on the date he last entered the service of his association or corporation.

Idem

(4) The Board may designate associations and corporations for the purposes of subsection 3.

(5) The cost of maintaining and administering the superannuation fund shall be deemed part of the cost of the administration of this Act and is chargeable to the accident fund. R.S.O. 1960, c. 437, s. 71 (3-5). Cost of administering fund

(6) Where an employee or a member of the Board becomes a member of the public service of Canada or the civil service of any province of Canada or of the civic service of any municipality or of the staff of any board, commission or public institution established under any Act of the Legislature of any province or of the Parliament of Canada, a sum of money equal to his contributions and credits in the superannuation fund or such portion thereof as the Board, subject to the approval of the Lieutenant Governor in Council, determines, shall be paid out of the superannuation fund into any like fund maintained to provide superannuation benefits for the members of such public, civil or civic service or staff, as the case may be. Transfer from superannuation fund to like fund

(7) Where a member of the public service of Canada or the civil service of any province of Canada or of the civic service of any municipality or of the staff of any board, commission or public institution established under any Act of the Legislature of any province or of the Parliament of Canada becomes a contributor to the superannuation fund and a sum of money is paid into the superannuation fund in respect of the period during which he made contributions as a public, civil or civic servant, or an employee of any such board, commission or public institution, the Board, subject to the approval of the Lieutenant Governor in Council, may allow him such credit in the superannuation fund in respect of the sum and the period of service represented thereby as is determined. Transfer to superannuation fund

(8) Notwithstanding subsection 1 and the regulations made under subsection 2, the Board, subject to the approval of the Lieutenant Governor in Council, may enter into an agreement with any government, municipality, board, commission or public institution mentioned in subsection 6 or 7 to provide reciprocal arrangements for the transfer of contributions and credits and where such an agreement exists such transfer shall be in accordance with the agreement. 1968, c. 143, s. 16 (2). Agreements authorized

72.—(1) The Board has exclusive jurisdiction to examine into, hear and determine all matters and questions arising under this Part and as to any matter or thing in respect of which any power, authority or discretion is conferred upon the Board, and the action or decision of the Board thereon is final and conclusive and is not open to question or review in any court and no proceedings by or before the Board shall be restrained by injunction, prohibition or other process or proceeding in any court or be removable by *certiorari* or otherwise into any court. General jurisdiction of Board

Specific jurisdiction of Board

(2) Without limiting the generality of subsection 1, such exclusive jurisdiction extends to determining,

(*a*) whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 1, and, if so, which of them;

(*b*) whether any industry or any part, branch or department of any industry falls within any of the classes for the time being included in Schedule 2, and, if so, which of them;

(*c*) whether any part of any such industry constitutes a part, branch or department of an industry within the meaning of this Part.

Power to reconsider

(3) Nothing in subsection 1 prevents the Board from reconsidering any matter that has been dealt with by it or from rescinding, altering or amending any decision or order previously made, all of which the Board has authority to do.

Principles upon which Board to decide cases

(4) The decisions of the Board shall be upon the real merits and justice of the case, and it is not bound to follow strict legal precedent. R.S.O. 1960, c. 437, s. 72.

Certified copies of records, etc., as evidence

73. Every copy of or extract from an entry in any book or record of the Board or of or from any document filed with the Board, certified by the secretary of the Board or by such other officer of the Board as may be appointed for that purpose by the Board to be a true copy or extract, shall be received in any court as *prima facie* evidence of the matter so certified without proof of the secretary's or other officer's appointment, authority or signature. R.S.O. 1960, c. 437, s. 73.

Costs

74.—(1) The costs of and incidental to any proceeding before the Board are in its discretion and may be fixed in any case at a sum certain or may be taxed.

Idem

(2) The Board may order by whom and to whom any costs are to be paid and by whom they are to be taxed and allowed.

Idem

(3) The Board may prescribe a scale under which such costs shall be taxed.

Idem

(4) In this section, the costs may include the costs of the Board, regard being had to the time and expense of the Board. 1962-63, c. 145, s. 8.

Board may act on report of officers

75.—(1) The Board may act upon the report of any of its officers and any inquiry that it considers necessary to make may be made by any member or officer of the Board or by some other person appointed to make the inquiry, and the Board may act upon his report as to the result of the inquiry.

(2) The person appointed to make the inquiry has for the purposes of the inquiry all the powers conferred upon the Board by section 65. R.S.O. 1960, c. 437, s. 75. Powers

76.—(1) An order of the Board for the payment of compensation or medical aid by an employer who is individually liable to pay the compensation of medical aid or any other order of the Board for the payment of money made under the authority of this Part, or a copy of any such order certified by the secretary to be a true copy, may be filed with the clerk of any county or district court and, when so filed, becomes an order of that court and may be enforced as a judgment of the court. Enforcement of orders of Board

(2) For the duties performed by him in connection with the filing of an order or certificate of the Board pursuant to this section or section 112, such clerk is entitled to a fee of $1, and, notwithstanding any other provision or rule, any proceeding provided for by either of such sections may be carried on by the Board by post without the necessity of personal attendance at any office. R.S.O. 1960, c. 437, s. 76. Fees of clerk of county or district court on filing order of Board

77.—(1)—Subject to the approval of the Lieutenant Governor in Council, the Board may make such regulations as may be considered expedient for carrying out the provisions of this Part and to meet cases not specifically provided for by this Part. Power of Board to make regulations

(2) Every person who contravenes any such regulation after it has become effective or any rule of an association formed as provided by section 119 that has been approved and ratified as provided by that section is guilty of an offence and for every contravention is on summary conviction liable to a fine of not more than $50, but no prosecution for any such contravention shall be taken without leave of the Board. R.S.O. 1960, c. 437, s. 77. Offence

78. The accounts of the Board shall be audited by the Provincial Auditor or by an auditor appointed by the Lieutenant Governor in Council for that purpose, and the salary or remuneration of the last-mentioned auditor shall be paid by the Board. R.S.O. 1960, c. 437, s. 78. Audit of accounts

79.—(1) The Board shall after the close of each year file with the Minister of Labour an annual report upon the affairs of the Board. Annual report

(2) The Minister of Labour shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1968, c. 143, s. 17. Tabling

Superintendent of insurance to examine into affairs and business of Board

80. The Superintendent of Insurance or one of his officers named by him for that purpose shall whenever required by the Lieutenant Governor in Council examine into the affairs and business of the Board for the purpose of determining as to the sufficiency of the accident fund and shall report thereon to the Lieutenant Governor in Council. R.S.O. 1960, c. 437, s. 80, *amended*.

Provincial grant towards costs of administration

81. To assist in defraying the expenses incurred in the administration of this Part, there shall be paid to the Board out of the Consolidated Revenue Fund such annual sum not exceeding $100,000 as the Lieutenant Governor in Council may direct. R.S.O. 1960, c. 437, s. 81.

ACCIDENT FUND

How accident fund to be provided

82.—(1) An accident fund shall be provided by contributions to be made by the employers in the classes or groups of industries for the time being included in Schedule 1, and compensation payable in respect of accidents that happen in any industry included in any of such classes or groups shall be paid out of the accident fund.

Industries in Schedule 2 not to contribute

(2) Notwithstanding the generality of the description of the classes for the time being included in Schedule 1, none of the industries included in Schedule 2 shall form part of or be deemed to be included in any of such classes, unless it is added to Schedule 1 by the Board under this Part. R.S.O. 1960, c. 437, s. 82.

Payment of compensation out of reserves or Consolidated Revenue Fund

83. If at any time there is not money available for payment of the compensation that has become due without resorting to the reserves, the Board may pay such compensation out of the reserves and shall make good the amount withdrawn from the reserves by making a special assessment upon the employers liable to provide the compensation or by including it in a subsequent annual assessment, but, if for any reason it is considered inexpedient to withdraw the amount required from the reserves, the Lieutenant Governor in Council may direct that the same be advanced out of the Consolidated Revenue Fund and in that case the amount advanced shall be collected by a special assessment and when collected shall be paid over to the Treasurer of Ontario. R.S.O. 1960, c. 437, s. 83.

Sufficiency of accident fund to be maintained

84. It is the duty of the Board at all times to maintain the accident fund so that with the reserves, exclusive of the special reserve, it will be sufficient to meet all the payments to be made out of the fund in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments that are to be made in those years in respect of accidents that have happened previously. R.S.O. 1960, c. 437, s. 84.

Reserve funds

85.—(1) Subject to section 108, it is not obligatory upon the Board to provide and maintain a reserve fund at all times equal to the capitalized value of the payments of compensation that will become due in future years unless the Board is of opinion that it is necessary to do so in order to comply with section 84.

Reserve fund need not be uniform as to all classes

(2) It is not necessary for the reserve fund to be uniform as to all classes but, subject to sections 84 and 108, it is discretionary with the Board to provide for a larger reserve fund in one or more of the classes than in another or others of them. R.S.O. 1960, c. 437, s. 85.

Regulations re Schedules 1 and 2

86.—(1) Subject to the approval of the Lieutenant Governor in Council, the Board may by regulation,

(*a*) rearrange any of the classes for the time being included in Schedule 1, and withdraw from any class any industry included in it and transfer it wholly or partly to any other class or form it into a separate class, or exclude it from the operation of this Part;

(*b*) establish other classes including any of the industries that are for the time being included in Schedule 2, or are not included in any of the classes in Schedule 1;

(*c*) add to any of the classes for the time being included in Schedule 1 any industry that is not included in any of such classes;

(*d*) exclude any trade, employment, occupation, calling, avocation or service from any industry for the time being included under this Part or at any time brought under this Part.

Apportionment of burden of assessment to hazard of business, etc.

(2) Where in the opinion of the Board the hazard to workmen in any of the industries embraced in a class is less than that in another or others of such industries, or where for any other reason it is deemed proper to do so, the Board may subdivide the class into subclasses or groups and, if that is done, the Board may fix the percentages or proportions of the contributions to the accident fund that are to be payable by the employers in each subclass or group.

Separate accounts to be kept for each class, subclass or group

(3) Separate accounts shall be kept of the amounts collected and expended in respect of every class, subclass or group, but for the purpose of paying compensation the accident fund shall, nevertheless, be deemed one and indivisible.

Power to increase amount of assessment in certain cases

(4) Where in the opinion of the Board sufficient precautions have not been taken for the prevention of accidents to workmen in the employment of an employer or where the working conditions are not safe for workmen or where the employer has not complied with the regulations respecting first aid, the Board may add to the amount of any contribution to the accident fund for which the

employer is liable such a percentage thereof as the Board considers just and may assess and levy the same upon the employer.

Collection and application of additional percentage

(5) Any additional percentage levied and collected under subsection 4 shall be added to the accident fund or applied in reduction of the assessment upon the other employers in the class or subclass to which the employer from whom it is collected belongs as the Board may determine.

Merit system

(6) Where, in the opinion of the Board, the ways, works, machinery and appliances in any industry conform to modern standards in such manner as to reduce the hazard of accidents to a minimum and the Board is convinced that all proper precautions are being taken by the employer for the prevention of accidents, and where the accident record of the employer has in fact been consistently good, the Board may reduce the amount of any contribution to the accident fund for which such employer is liable. R.S.O. 1960, c. 437, s. 86 (1-6).

Demerit system

(7) Where the work injury frequency and the accident cost of the employer are consistently higher than that of the average in the industry in which he is engaged, the Board, as provided by the regulations, may increase the assessment for that employer by such a percentage thereof as the Board considers just, and may assess and levy the same upon the employer, and may require the employer to establish one or more safety committees at plant level. 1964, c. 124, s. 9; 1968, c. 143, s. 18.

Relief

(8) The Board, if satisfied that the default was excusable, may in any case relieve the employer in whole or in part from liability under subsection 4. R.S.O. 1960, c. 437, s. 86 (7).

Injury to minor

87. Where the Board finds that an employer has employed a minor in contravention of the law and a claim for injury to the minor is made, such unlawful employment does not affect or prejudice the right of the claimant, but the Board may exclude the industry from the class in which it is included and, if it is so excluded, the employer is individually liable to pay the compensation to which the minor or any dependant of the minor is entitled. R.S.O. 1960, c. 437, s. 87.

Withdrawing small industries from classes

88.—(1) The Board may in the exercise of the powers conferred by section 86 withdraw or exclude from a class industries in which not more than a stated number of workmen are usually employed and may afterwards add them to the class or classes from which they have been withdrawn, and any industry so withdrawn or excluded shall not thereafter be deemed to be included in Schedule 1, but no withdrawal or exclusion under the authority of this subsection has the effect of excluding any industry from Schedule 2.

(2) Where industries are withdrawn or excluded from a class under the authority of subsection 1, an employer in any of them may, nevertheless, elect to become a member of the class to which but for the withdrawal or exclusion he would have belonged, and, if he so elects, he shall be a member of that class and as such liable to contribute to the accident fund, and his industry shall be deemed to be embraced in Schedule 1. Employers in industries withdrawn under subs. 1 may elect to become members of class

(3) Notice of the election shall be given to the secretary of the Board and the election shall be deemed to have been made when the notice is received by him. Notice of election

(4) A workman in any industry excluded under the authority of subsection 1 may notify the secretary of the Board that he desires such industry to be included in Schedule 1, and such notice upon receipt thereof by the Secretary has the same effect as a notice of election from the employer. R.S.O. 1960, c. 437, s. 88. Election of workman

89. The powers conferred by sections 86 to 88 may be exercised from time to time and as often as in the opinion of the Board occasion may require. R.S.O. 1960, c. 437, s. 89. Powers may be exercised as occasion requires

90. The Board may, upon the application of an employer, add to Schedule 1, for such time and upon such terms and conditions as the Board may determine, any industry or part of an industry, or department of work or service, of such employer. R.S.O. 1960, c. 437, s. 90. Additions to Schedule 1

91.—(1) Any independent operator, not being an employer or a workman but performing work of a nature that, if he were a workman, would be within this Part, may be admitted by the Board as being entitled for himself and his dependants to the same compensation as if he were a workman within the scope of this Part. Independent operators

(2) An application under this section shall be made in such form and under such conditions as may be prescribed by the regulations. 1965, c. 142, s. 5. Applications

92. The Board may, upon the application of an employer, add to Schedule 2, for such time and upon such terms and conditions as the Board may determine, any industry or part of an industry, or department of work or service, of such employer not in Schedule 1. R.S.O. 1960, c. 437, s. 91. Additions to Schedule 2

STATEMENTS TO BE FURNISHED BY EMPLOYERS

93.—(1) Subject to the regulations, every employer shall yearly on or before such date as shall be prescribed by the Board, and at such other time or times as it may by order or regulation of the Board be required, prepare and transmit to the Board a Statements to be furnished by employers

statement of the amount of the wages earned by all his employees during the year then last past or any part thereof specified by the Board and of the amount that he estimates he will expend for wages during the then current year or any part thereof specified by the Board, and such additional information as the Board may require, both certified to be accurate by the employer or manager of the business or, where the employer is a corporation, by an officer of the corporation having a personal knowledge of the matters to which the statements relate.

Statement to be furnished by employer

(2) Where an industry coming within any of the classes for the time being included in Schedule 1 is established or commenced on or after the 1st day of January in the then current year, the employer shall forthwith notify the Board of the fact and prepare and transmit to the Board a statement of the amount that he estimates he will expend for wages for the remainder of the year and such other information as the Board may require, certified to be accurate in the manner prescribed by subsection 1.

Employer to keep account of wages paid

(3) Every employer shall keep in such form and with such detail as may be required for the purposes of this Act a careful and accurate account of all wages paid to his employees and such account shall be kept within Ontario and shall be produced to the Board and its officers when so required.

Separate statements as to branches, etc.

(4) Where the business of the employer embraces more than one branch of business or class of industry, the Board may require separate statements to be made as to each branch or class of industry, and such statements shall be made, verified and transmitted as provided by subsection 1.

Failure to furnish statements

(5) If any employer does not make and transmit to the Board the prescribed statement within the prescribed time, the Board may base any assessment or supplementary assessment thereafter made upon him on such sum as in its opinion is the probable amount of the payroll of the employer and the employer is bound thereby, but, if it is afterwards ascertained that such amount is less than the actual amount of the payroll, the employer is liable to pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed on the basis of his payroll.

Consequences of default in furnishing statements

(6) If an employer does not comply with subsection 1, subsection 2, subsection 3 or subsection 4, or if any statement made thereunder is not a true and accurate statement of any of the matters required to be set forth in it, the employer for every such non-compliance and for every such statement is guilty of an offence and on summary conviction is liable to a fine of not more than $500, and default or delay in furnishing any such statement or insufficiency of estimate of expenditure for wages also renders the employer liable to pay an additional percentage of assessment

or to pay interest, as fixed by the Board. R.S.O. 1960, c. 437, s. 92.

94.—(1) Every assessor of a township, town or village shall yearly on or before the last day for completing his assessment roll make a return to the Board upon forms provided by the Board for the purpose showing the names, addresses, nature of business, and usual number of employees, of all employers of labour carrying on in the municipality any industry or business other than farming or mercantile business. Municipal assessors to make return re employees

(2) The Board may make remuneration for such return out of the accident fund. R.S.O. 1960, c. 437, s. 93. Payment of assessors

95.—(1) The Board and any member of it and any officer or person authorized by it for that purpose have the right to examine the books and accounts of the employer and to make such other inquiry as the Board considers necessary for the purpose of ascertaining whether any statement furnished to the Board under section 93 is an accurate statement of the matters that are required to be stated therein or of ascertaining the amount of the payroll of any employer or of ascertaining whether any industry or person is under the operation of this Part and whether in Schedule 1 or Schedule 2, and for the purpose of any such examination and inquiry the Board and the person so appointed have all the powers that may be conferred on a commissioner under *The Public Inquiries Act*. Examination of accounts and books of employer R.S.O. 1970, c. 379

(2) The Board may, for the purpose of the examination mentioned in subsection 1, apply *ex parte* to a judge of the county or district court of the county or district in which the books and accounts are located for an order authorizing an officer of the Board, together with such members of the Ontario Provincial Police Force or other police officers as he calls on to assist him, to enter and search, if necessary by force, any building, receptacle or place for books and accounts of the employer and to seize and take away any such books and accounts for the purpose of the examination and retain them in his possession until such examination is completed. Order to seize books

(3) Every employer and every other person who obstructs or hinders the making of the examination and inquiry mentioned in subsection 1 or refuses to permit it to be made is guilty of an offence and on summary conviction is liable to a fine of not more than $500. Offence

(4) Every member of the Board and every officer or person authorized by it to make examination or inquiry under this section have power and authority to require and take affidavits, affirmations or declarations as to any matter of such examination or inquiry and for all purposes of this Act to administer oaths, Officers of Board authorized to take declarations

affirmations and declarations and certify to the same having been made. R.S.O. 1960, c. 437, s. 94.

Assessment may be made to correspond with payrolls

96.—(1) If a statement is found to be inaccurate, the assessment shall be made on the true amount of the payroll as ascertained by such examination and inquiry, or, if an assessment has been made against the employer on the basis of his payroll being as shown by the statement, the employer shall pay to the Board the difference between the amount for which he was assessed and the amount for which he would have been assessed if the amount of the payroll had been truly stated, and in addition a sum equal to such difference.

Relief from additional sum

(2) The Board, if satisfied that the inaccuracy of the statement was not intentional and that the employer honestly desired to furnish an accurate statement, may relieve him from the payment of the additional sum provided for by subsection 1 or any part of it. R.S.O. 1960, c. 437, s. 95.

Board to have right to inspect premises of employer

97.—(1) The Board and any member of it and any officer or person authorized by it for that purpose have the right at all reasonable hours to enter into the establishment of any employer who is liable to contribute to the accident fund and the premises connected with it and every part of them for the purpose of ascertaining whether the ways, works, machinery or appliances therein are safe, adequate and sufficient and whether all proper precautions are taken for the prevention of accidents to the workmen employed in or about the establishment or premises and whether the safety appliances or safeguards prescribed by law are used and employed therein, or for any other purpose that the Board considers necessary for the purpose of determining the proportion in which such employer should contribute to the accident fund.

Offence

(2) Every employer and every other person who obstructs or hinders the making of any inspection under subsection 1, or refuses to permit it to be made, is guilty of an offence and on summary conviction is liable to a fine of not more than $500. R.S.O. 1960, c. 437, s. 96.

PRIVILEGED INFORMATION

Information obtained not to be divulged

98.—(1) No officer of the Board and no person authorized to make an inquiry under this Part shall divulge or allow to be divulged, except in the performance of his duties or under the authority of the Board, any information obtained by him or that has come to his knowledge in making or in connection with an inspection or inquiry under this Part.

Offence

(2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $50. R.S.O. 1960, c. 437, s. 97.

99. Every report made under section 52 and every other report made or submitted to the Board by a physician, surgeon, hospital, nurse, dentist, drugless practitioner, chiropodist or optometrist is for the use and purposes of the Board only, is deemed to be a privileged communication of the person making or submitting the same, and unless it is proved that it was made maliciously, is not admissible as evidence or subject to production in any court in an action or proceeding against such person. 1968-69, c. 140, s. 2. Reports privileged

ASSESSMENTS

100.—(1) The Board shall in every year assess and levy upon the employers in each of the classes such percentage of payroll or such other rate or such specific sum as, allowing for any surplus or deficit in the class, it deems sufficient to pay the compensation during the current year in respect of injuries to workmen in the industries within the class, and to provide and pay the expenses of the Board in the administration of this Part for that year or so much thereof as may not be otherwise provided for, and also to maintain a reserve fund to pay the compensation payable in future years in respect of claims in that class for accidents happening in that year, of such an amount as the Board considers necessary to prevent the employers in future years from being unduly or unfairly burdened with payments that are to be made in those years in respect of accidents that have previously happened. Assessments, levying

(2) Such assessments, if the Board sees fit, may be levied provisionally upon the estimate of payroll given by the employer or upon an estimate fixed by the Board and, after the actual payroll has been ascertained, may be adjusted to the correct amount, and the payment of assessments, if the Board sees fit, may be divided into instalments. R.S.O. 1960, c. 437, s. 98. Provisional levy

101.—(1) Where the assessment is based on the payroll of the employer and there is included in it the wages or salary of a workman who has been paid more than the maximum rate of annual earnings established by subsection 1 of section 44, the excess shall be deducted from the amount of the payroll and the assessment shall be based on the amount of it as so reduced. 1968, c. 143, s. 19. Deduction from payroll of proportion of wages

(2) It is not necessary for the assessments upon the employers in a class, subclass or group to be uniform, but they may vary for each individual industry or plant in relation to the hazard of such industry or plant, and the Board may levy a differential rate of assessment on each employer in the class, subclass or group accordingly. Assessments need not be uniform

(3) A system of merit rating may, if considered proper, be adopted. R.S.O. 1960, c. 437, s. 99 (2, 3). Merit rating

Rate of assessment to be fixed by the Board

102.—(1) The Board shall determine and fix the percentage, rate or sum for which each employer is assessed under section 100 or 101, or the provisional amount thereof, and each employer shall pay to the Board the amount or provisional amount of his assessment within one month or such other time as the Board may fix after notice of the assessment and of the amount has been given to him, or, where payment is to be made by instalments, he shall pay the first instalment within such time and the remaining instalment or instalments at the time or times specified in the notice.

How notice may be served

(2) The notice may be sent by post to the employer and shall be deemed to have been given to him on the day on which the notice was posted.

Revision of assessments

(3) When it appears at any time that a statement or estimate of payroll upon which an assessment or provisional amount of assessment is based is too low, the employer shall upon demand pay to the Board such sum, to be fixed by the Board, as is sufficient to bring the payment of assessment up to the proper amount, and payment of any such sum may be enforced in the same manner as the payment of any assessment may be enforced. R.S.O. 1960, c. 437, s. 100.

Insufficient assessment

103. If the amount realized from any assessment is insufficient for the purpose for which the assessment was made, the Board may make supplementary assessments to make up the deficiency and section 102 applies to such assessments, but the Board may defer assessing for such deficiency until the next annual assessment is made and then include it in such assessment. R.S.O. 1960, c. 437, s. 101.

All classes may be assessed for deficiency in any of them

104.—(1) Where any deficiency in the amount realized from any assessment in any class is caused by the failure of some of the employers in that class to pay their share of the assessment or by any disaster or other circumstance that in the opinion of the Board would unfairly burden the employers in that class, the deficiency or loss shall be made up by supplementary assessments upon the employers in all the classes and section 102 applies to such assessments, but the Board may defer assessing for such deficiency or loss until the next annual assessment is made and then include it in such assessment.

Special fund

(2) The Board, where it considers proper, may add to the assessment for any class or classes or for all the classes in Schedule 1 a percentage or sum for the purpose of raising a special fund to be laid aside and used to meet the loss arising from any disaster or other circumstance that, in the opinion of the Board, would unfairly burden the employers in any class. R.S.O. 1960, c. 437, s. 102.

105. If and so far as any deficiency mentioned in sections 103 and 104 is afterwards made good wholly or partly by the defaulting employer, the amount that has been made good shall be apportioned between the other employers in the proportions in which the deficiency was made up by them by the payment of supplementary assessments upon them and shall be credited to them in making the next assessment. R.S.O. 1960, c. 437, s. 103. Where deficiency made good

106.—(1) If for any reason an employer liable to assessment is not assessed in any year, he is nevertheless liable to pay to the Board the amount for which he should have been assessed, and payment of that amount may be enforced in the same manner as the payment of an assessment may be enforced. Employer not assessed

(2) Any sum collected from an employer under subsection 1 shall be taken into account by the Board in making an assessment in a subsequent year on the employers in the class or subclass to which such employer belonged. R.S.O. 1960, c. 437, s. 104. Amount collected to be taken into account

107. Notwithstanding that the deficiency arising from a default in the payment of the whole or part of any assessment has been made up by a special assessment, a defaulting employer continues liable to pay to the Board the amount of every assessment made upon him or so much of it as remains unpaid. R.S.O. 1960, c. 437, s. 105. Employer liable to pay unpaid sums

108. Whenever the Lieutenant Governor in Council is of opinion that the condition of the accident fund is such that with the reserves, exclusive of the special reserve, it is not sufficient to meet all the payments to be made in respect of compensation as they become payable and so as not unduly or unfairly to burden the employers in any class in future years with payments that are to be made in those years in respect of accidents that have happened in previous years, he may require the Board to make a supplementary assessment of such sum as in his opinion is necessary to be added to the fund, and, when such a requirement is made, the Board shall make such supplementary assessment forthwith and it shall be made in like manner as is hereinbefore provided as to other special assessments and all the provisions of this Part as to special assessments apply to it. R.S.O. 1960, c. 437, s. 106. Lieutenant Governor in Council may require supplementary assessments to be made

109. In order to maintain the accident fund as provided by section 84, the Board may from time to time and as often as may be considered necessary include in any sum to be assessed upon the employers and may collect from them such sums as are considered necessary for that purpose, and the sums so collected shall form a reserve fund and shall be invested in any of such securities as a trustee may invest in under *The Trustee Act.* 1968, c. 143, s. 20. Formation of reserves

R.S.O. 1970, c. 470

Additional percentage for non-payment of assessment

110. If an assessment or a special assessment is not paid when it becomes payable, the defaulting employer is liable to pay and shall pay for his default such a percentage upon the amount unpaid as may be prescribed by the regulations or as may be determined by the Board. R.S.O. 1960, c. 437, s. 108.

Failure to make return or pay assessment

111.—(1) Any employer who refuses or neglects to make or transmit any payroll, return or other statement required to be furnished by him under section 93, or who refuses or neglects to pay any assessment or special or supplementary assessment or the provisional amount of any assessment, or any instalment or part thereof, shall, in addition to any penalty or other liability to which he may be subject, pay to the Board the full amount or capitalized value, as determined by the Board, of the compensation and medical aid payable in respect of any accident to a workman in his employ that happens during the period of such default, and the payment of such amount may be enforced in the same manner as the payment of an assessment may be enforced.

Relieving clause

(2) The Board, if satisfied that such default was excusable, may in any case relieve such employer in whole or in part from liability under this section. R.S.O. 1960, c. 437, s. 109.

Collection of unpaid assessments

112. Where default is made in the payment of any assessment or special assessment, or any part of it, the Board may issue its certificate stating that the assessment was made, the amount remaining unpaid on account of it and the person by whom it was payable, and such certificate or a copy of it certified by the secretary to be a true copy may be filed with the clerk of any county or district court or, where the amount remaining unpaid does not exceed $400, with the clerk of any small claims court and, when so filed, becomes an order of that court and may be enforced as a judgment of the court against such person for the amount mentioned in the certificate. R.S.O. 1960, c. 437, s. 110; 1962-63, c. 145, s. 10.

Board may collect assessment through municipal collectors

113.—(1) If an assessment or a special assessment, or any part of it, remains unpaid for thirty days after it has become payable, the Board, in lieu of or in addition to proceeding as provided by section 112, may issue its certificate stating the name and residence of the defaulting employer, the amount unpaid on the assessment and the establishment in respect of which it is payable, and, upon the delivery of the certificate to the clerk of the municipality in which the establishment is situate, he shall cause the amount so remaining unpaid as stated in the certificate to be entered upon the collector's roll as if it were taxes due by the defaulting employer in respect of such establishment, and it shall be collected in like manner as taxes are levied and collected and the amount, when collected, shall be paid over by the collector to the Board.

(2) The collector is entitled to add 5 per cent thereof to the amount to be collected and to retain such percentage for his services in making the collection. R.S.O. 1960, c. 437, s. 111. Collector entitled to percentage

114.—(1) Where an employer engages in any of the industries for the time being included in Schedule 1 and has not been assessed in respect of it, the Board, if it is of opinion that the industry is to be carried on only temporarily, may require the employer to pay or to give security for the payment to the Board of a sum sufficient to pay the assessment for which the employer would have been liable if the industry had been in existence when the next preceding assessment was made. Case of industry temporarily carried on

(2) The Board has the like powers and it entitled to the like remedies for enforcing payment of any such sum as it possesses or is entitled to in respect of assessments. Powers of Board

(3) Every employer who makes default in complying with subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not more than $200 and an additional fine of not more than $20 per day for every day on which the default continues. R.S.O. 1960, c. 437, s. 112. Offence

115. In the case of a work or service performed by an employer in any of the industries for the time being included in Schedule 1 for which the employer would be entitled to a lien under *The Mechanics' Lien Act*, it is the duty of the owner as defined by that Act to see that any sum that the employer is liable to contribute to the accident fund is paid and, if any such owner fails to do so, he is personally liable to pay it to the Board, and the Board has the like powers and is entitled to the like remedies for enforcing payment as it possesses or is entitled to in respect of an assessment. R.S.O. 1960, c. 437, s. 113. Liability of owner under R.S.O. 1970, c. 267, for contribution of employer to accident fund

116.—(1) There shall be included among the debts that, under *The Assignments and Preferences Act*, *The Trustee Act*, and *The Corporations Act*, are, in the distribution of the property, in the case of an assignment or death or in the distribution of the assets of a company being wound up, under the said Acts respectively, to be paid in priority to all other debts, the amount of any assessment or compensation the liability wherefore accrued before the date of the assignment or death or before the date of the commencement of the winding up, and the said Acts have effect accordingly. Distribution of assets R.S.O. 1970, cc. 34, 470, 89

(2) When the compensation is a periodical payment, the liability in respect thereof shall, for the purposes of this section, be taken to be the amount of the lump sum, to be determined by the Board, for which the periodical payments may be commuted. R.S.O. 1960, c. 437, s. 114 (1, 2). Periodical payments of compensation

Lien

(3) The amount set forth in a certificate of the Board filed pursuant to section 112 is a first lien upon all the property, real or personal, of the employer used in or in connection with the industry with respect to which the employer is assessed, subject only to municipal taxes, and the amount levied under execution upon any such judgment to the extent of the amount due upon such execution shall forthwith be paid to the Board. 1962-63, c. 145, s. 11.

Notice of lien

R.S.O. 1970, c. 234

(4) The lien mentioned in subsection 3 is effective only where notice of the lien has been filed by way of writ of *fieri facias* in the office of the sheriff of the county or district in which the property against which the lien applied is situated and, where land affected is registered under *The Land Titles Act*, a copy of such writ has been transmitted by registered mail or delivered by the sheriff to the proper master of titles. 1965, c. 142, s. 6.

RETURNS OF ACCIDENTS

Employers to give notice of accidents

117.—(1) Every employer, within three days after he learns of the happening of an accident to a workman in his employment by which the workman is disabled from earning full wages or that necessitates medical aid, shall notify the Board in writing of,

(*a*) the happening of the accident and the nature of it;

(*b*) the time of its occurrence;

(*c*) the name and address of the workman;

(*d*) the place where the accident happened;

(*e*) the name and address of the physician or surgeon, if any, by whom the workman was or is attended for the injury,

and shall in any case furnish such further details and particulars respecting any accident or claim to compensation as the Board may require. R.S.O. 1960, c. 437, s. 115 (1); 1968, c. 143, s. 21 (1).

Offence

(2) For every contravention of subsection 1, the employer is guilty of an offence and on summary conviction is liable to a fine of not more than $200. R.S.O. 1960, c. 437, s. 115 (2); 1968, c. 143, s. 21 (2).

Default in reporting accident or claim

(3) Every employer who makes default in reporting or furnishing particulars of any accident or claim shall, in addition to any other penalty or liability, pay to the Board, if so ordered by the Board, the amount of compensation and medical aid awarded in respect of such accident or claim in accordance with the evidence or information otherwise obtained by the Board. R.S.O. 1960, c. 437, s. 115 (3).

INDUSTRIAL DISEASES

118.—(1) Where a workman suffers from an industrial disease and is thereby disabled from earning full wages at the work at which he was employed or his death is caused by an industrial disease and the disease is due to the nature of any employment in which he was engaged, whether under one or more employments, the workman is or his dependants are entitled to compensation as if the disease was a personal injury by accident and the disablement was the happening of the accident, subject to the modifications hereinafter mentioned or contained in the regulations, unless at the time of entering into the employment he had wilfully and falsely represented himself in writing as not having previously suffered from the disease. Certain industrial diseases to be deemed accidents

(2) Where the compensation is payable by an employer individually, it is payable by the employer who last employed the workman in the employment to the nature of which the disease was due. By whom compensation payable

(3) The workman or his dependants, if so required, shall furnish the employer mentioned in subsection 2 with such information as to the names and addresses of all the other employers by whom he was employed in the employment to the nature of which the disease was due as such workman or his dependants may possess, and, if such information is not furnished or is not sufficient to enable that employer to take the proceedings mentioned in subsection 4, that employer upon proving that the disease was not contracted while the workman was in his employment is not liable to pay compensation. Names of former employers to be furnished by claimants

(4) If that employer alleges that the disease was in fact contracted while the workman was in the employment of some other employer, he may bring such employer before the Board and, if the allegation is proved, that other employer is the employer by whom the compensation shall be paid. Last employer may bring in former employers

(5) If the disease is of such a nature as to be contracted by a gradual process, any other employers who employed the workman in the employment to the nature of which the disease was due are liable to make to the employer by whom the compensation is payable such contributions as the Board may determine to be just. Where disease result of gradual process

(6) The amount of the compensation shall be fixed with reference to the earnings of the workman under the employer by whom the compensation is payable, and the notice provided for by section 20 shall be given to the employer who last employed the workman in the employment to the nature of which the disease was due and the notice may be given notwithstanding that the workman has voluntarily left the employment. How compensation to be fixed

Charging compensation to particular classes

(7) Where the compensation is payable out of the accident fund, the Board shall make such investigation as it considers necessary to ascertain the class or classes against which the compensation should be charged and shall charge or apportion the compensation accordingly.

Presumptions as to disease being due to nature of employment

(8) If the workman at or immediately before the date of the disablement was employed in any process mentioned in the second column of Schedule 3 and the disease contracted is the disease in the first column of the Schedule set opposite to the description of the process, the disease shall be deemed to have been due to the nature of that employment unless the contrary is proved, but, except where the Board is satisfied that the disease is not due to any other cause than his employment in Ontario, no compensation is payable under this section unless the workman has been a resident of Ontario for the three years next preceding his first disablement.

Appointment of medical officers, mines
R.S.O. 1970, c. 274

(9) The Board may appoint such medical officers as may be required to carry out *The Mining Act* with regard to the examination of employees or applicants for employment, and the remuneration and expenses of such officers shall be paid out of the rates imposed for payment of silicosis claims.

Condition upon which compensation granted

(10) Nothing in this Act entitles a workman or his dependants to compensation, medical aid or payment of burial expenses for disability or death from silicosis unless the workman has been actually exposed to silica dust in his employment in Ontario for periods amounting in all to at least two years preceding his disablement. R.S.O. 1960, c. 437, s. 116 (1-10).

Agreements for sharing costs of silicosis claims

(11) Notwithstanding any other provision in this Act, the Board may enter into an agreement with the appropriate authority in any other province or territory of Canada to provide for the sharing of the costs of silicosis claims in proportion to the exposure or estimated amount of exposure to silica dust encountered by the workman in the provinces or territories concerned. 1968, c. 143, s. 22.

Saving

(12) Nothing in this section affects the right of a workman to compensation in respect of a disease to which this section does not apply if the disease is the result of an injury in respect of which he is entitled to compensation under this Part.

Extension of section to pneumoconiosis, etc.

(13) The provisions of this section relating to silicosis apply *mutatis mutandis* to pneumoconiosis and stone worker's or grinder's phthisis.

Additional industrial disease

(14) The Board, subject to the approval of the Lieutenant Governor in Council, may declare any disease to be an industrial disease and may amend Schedule 3 accordingly. R.S.O. 1960, c. 437, s. 116 (11-13).

FORMATION OF ASSOCIATIONS AND COMMITTEES

Accident prevention associations

119.—(1) The employers in any of the classes for the time being included in Schedule 1 may, with the approval and under the control of the Board, form themselves into an association for the purpose of education in accident prevention. 1964, c. 124, s. 10 (1).

Rules of operation

(2) If the Board is of opinion that an association so formed sufficiently represents the employers in the industries included in the class, the Board may approve rules of operation and, when approved by the Board and by the Lieutenant Governor in Council, they are binding on all the employers in industries included in the class. R.S.O. 1960, c. 437, s. 117 (2); 1964, c. 124, s. 10 (2).

Inspectors

(3) Where an association under the authority of its rules of operation appoints an inspector or an expert for the purpose of education in accident prevention, the Board may pay the whole or any part of the salary or remuneration of such inspector or expert out of the accident fund or out of that part of it that is at the credit of any one or more of the classes as the Board considers just. R.S.O. 1960, c. 437, s. 117 (3); 1964, c. 124, s. 10 (3).

Expenses of associations

(4) The Board may, in any case that it considers proper, make a grant towards the expenses of any such association.

Where charged

(5) Any moneys paid by the Board under this section shall be charged against the class represented by such association and levied as part of the assessment against such class.

Interpretation

(6) The word "class" in this section includes subclass or such part of a class or such number of classes or parts of classes in Schedule 1 as may be approved by the Board. R.S.O. 1960, c. 437, s. 117 (4-6).

Committee of employers

120.—(1) The employers in any of the classes for the time being included in Schedule 1 may appoint a committee of themselves, consisting of not more than five employers, to watch over their interests in matters to which this Part relates.

Board may act on certificate of committee as to payment of compensation

(2) Where a claim is for compensation for an injury for which the employers in any such class would be liable, if the Board is of opinion that the committee sufficiently represents such employers and the committee certifies to the Board that it is satisfied that the claim should be allowed, the Board may act on the certificate and may also act upon the certificate of the committee as to the proper sum to be awarded for compensation if the workman or dependant is satisfied with the sum named in the certificate.

Medium of communication

(3) The committee may be the medium of communication on the part of the class with the Board. R.S.O. 1960, c. 437, s. 118.

CONTRIBUTION BY EMPLOYERS IN SCHEDULE 2

Contribution by employers individually liable to expenses of administration

121. Employers in industries for the time being included in Schedule 2 shall pay to the Board such proportion of the expenses of the Board in the administration of this Part as the Board considers just and determines and the sum payable by them shall be apportioned between such employers and be assessed and levied in like manner as in the case of assessments for contributions to the accident fund, and the provisions of this Part as to making such assessments apply *mutatis mutandis* to assessments made under the authority of this section. R.S.O. 1960, c. 437, s. 119.

Disposition of fines

122. The fines recovered for an offence against this Part shall be paid over to the Board and shall form part of the accident fund. R.S.O. 1960, c. 437, s. 120.

Application of Part I

123. This Part applies only to the industries mentioned in Schedule 1 and 2 and to such industries as are added to them under the authority of this Part and to employments therein, and applies to any employment by or under the Crown in right of Ontario, including any employment by any permanent board or commission appointed by the Crown in right of Ontario. R.S.O. 1960, c. 437, s. 121.

PART II

Application of sections 125 and 126

124. Subject to section 127, sections 125 and 126 apply only to the industries to which Part I does not apply and to the workmen employed in such industries, but outworkers and persons whose employment is of a casual nature and who are employed otherwise than for the purposes of the employer's trade or business, who are employed in industries under Part I but who are excluded from the benefit of Part I, are not by this section excluded from the benefit of sections 125 and 126. R.S.O. 1960, c. 437, s. 123.

Liability of employer for defective ways, works, etc., and for negligence of his servants

125.—(1) Where personal injury is caused to a workman by reason of any defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of his employer or by reason of the negligence of his employer or of any person in the service of his employer acting within the scope of his employment, the workman or, if the injury results in death, the legal personal representatives of the workman and any person entitled in case of death have an action against the employer, and, if the action is brought by the workman, he is entitled to recover from the employer the damages sustained by the workman by or in consequence of the injury, and, if the action is brought by the legal personal representatives of the workman or by or on behalf of persons entitled to damages under *The Fatal Accidents Act*, they are

R.S.O. 1970, c. 164

entitled to recover such damages as they are entitled to under that Act.

Liability of person supplying defective ways, works, plant, etc.

(2) Where the execution of any work is being carried into effect under any contract, and the person for whom the work is done owns or supplies any ways, works, machinery, plant, buildings or premises, and by reason of any defect in the condition or arrangement of them personal injury is caused to a workman employed by the contractor or by any subcontractor, and the defect arose from the negligence of the person for whom the work or any part of it is done or of some person in his service and acting within the scope of his employment, the person for whom the work or that part of the work is done is liable to the action as if the workman had been employed by him, and for that purpose shall be deemed to be the employer of the workman within the meaning of this Act, but any such contractor or subcontractor is liable to the action as if this subsection had not been enacted but not so that double damages are recoverable for the same injury.

Liability of contractor and sub-contractor

(3) Nothing in subsection 2 affects any right or liability of the person for whom the work is done and the contractor or subcontractor as between themselves.

Effect of continuance in employment after knowledge

(4) A workman shall not, by reason only of his continuing in the employment of the employer with knowledge of the defect or negligence that caused his injury, be deemed to have voluntarily incurred the risk of the injury. R.S.O. 1960, c. 437, s. 124.

Certain common law rules abrogated

R.S.O. 1970, c. 164

126.—(1) A workman shall be deemed not to have undertaken the risks due to the negligence of his fellow workmen and contributory negligence on the part of a workman is not a bar to recovery by him or by any person entitled to damages under *The Fatal Accidents Act* in an action for the recovery of damages for an injury sustained by or causing the death of the workman while in the service of his employer for which the employer would otherwise have been liable.

Contributory negligence

(2) Contributory negligence on the part of the workman shall nevertheless be taken into account in assessing the damages in any such action. R.S.O. 1960, c. 437, s. 125.

Domestic servants, etc.

127. This Act does not apply to domestic or menial servants or their employers. 1965, c. 142, s. 8.

CHAPTER 506

The Workmen's Compensation Insurance Act

Interpretation R.S.O. 1970, c. 164

1. In this Act, "workman" includes the dependants of a workman entitled to recover damages under *The Fatal Accidents Act*. R.S.O. 1960, c. 438, s. 1.

Claim of workman on insurance moneys payable to employer

2. Where an employer is insured against his liability for damages to a workman under any Act of the Legislature, the insurance shall be deemed to be for and shall enure to the benefit of the workman, and if a workman has suffered injury in respect of which he is entitled to recover damages from his employer, the insurer shall not, without the consent of the workman, pay to the employer the amount for which the insurer is liable to him in respect of such injury, until the claim of the workman has been satisfied, and the workman if and when his right to recover the damages has been determined as against the employer is entitled to demand and recover from the insurer the amount of the damages and costs to the extent to which, but no further than, the employer is entitled to recover the same from the insurer. R.S.O. 1960, c. 438, s. 2.

Where Act not to apply R.S.O. 1970, c. 505

3. This Act does not apply to a workman who is entitled to compensation under Part I of *The Workmen's Compensation Act*. R.S.O. 1960, c. 438, s. 3.

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